follow "whatever course is necessary to get to the bottom of this." 1-14-4-2

Pearcy said it would be necessary to wait until next week to hear from all persons concerned since some of the prisoners who are to testify will have to be brought from other cities. 1-14-4-3

The prisoner who gave the statement said he did it because "I've been in and out of that jail a lot of times. That could have been me that got beaten to death." 1-14-4-4

Pearcy said the prisoner testified before the grand jury an hour and 15 minutes last night. He said the grand jury probe would continue today, but refused to say who else would be called to testify." 1-14-4-5

The second article in Complaint Exhibit 1 (Tr., p. 2627) carried a one-column headline, "Reporter Digs 11 Weeks To Get Facts", and reads as follows:

Rick Johnson, reporter for The Indianapolis Star whose investigation of the beating-death of Elmer L. Reagan led to the Marion County Grand Jury probe yesterday, has been working 11 weeks on the story. 1-1-7-3

On Aug. 11 he first discovered that Reagan had died. He reported it in The Star the next day. 1-1-7-4

Then two days later on Aug. 14 he received a tip from a man who told him: 1-1-7-5

"You haven't even got half of the story. The nut didn't kill that man. A deputy did." 1-1-7-6

The tipster gave Johnson the name of the deputy and some advice: 1-1-7-7

"Don't start nosing around the jail. They (prisoners and deputies) are scared to death. No one dares to talk about it." 1-1-7-8

Johnson waited a few days and then began asking questions of his tipsters about what he had heard. Deputies and former inmates said they, too, had heard the story but could not provide detailed information.

They promised to —(1-1-7-7)—relay any information they obtained. 1-14-1-1

The vital tip came at 1 a.m. Oct. 7. It was a report that a prisoner told a deputy sheriff that he had seen another deputy beat Reagan on two different occasions on July 14. The deputy provided Johnson with the name of the alleged attacker and with names of other prisoners who saw the attack and were willing to talk. Some had been moved to other penal institutions. 1-14-1-2

On Oct. 8 another deputy gave Johnson the names of deputies who were involved in the beating or had first-hand knowledge of it. He also provided the names of the prisoners in the cellblock who could have seen the beating. 1-14-1-3

The two tipsters had given almost identical information. 1-14-1-4

Judge Eugene M. Fife Jr., Criminal Court, Division 1, was informed about the information Johnson received. 1-14-2-1

On Oct. 21 he called in the prisoner who had talked to the deputy. The prisoner gave Judge Fife and Johnson the entire story of the beating. 1-14-2-2

Fife then advised that the Marion County Coroner's Office be notified. The next day, Bethel E. Gaither, chief investigator for the coroner, and Johnson met in Fife's office with the prisoner. At that session the prisoner made a statement and signed it. It then was notarized. 1-14-2-3

Last Monday Gaither showed the statement to the coroner, Dr. Robert C. Collins, who ordered the information taken to the grand jury. 1-14-2-4

Yesterday Gaither turned the statement over to James E. Bath, chief deputy for the grand jury, and to Prosecutor Noble R. Pearcy. They took it to the grand jury. 1-14-2-5

Exhibit 2 (to Complaint Paragraph 2).

Complaint Exhibit 2 (Tr. 45-48; 2810; SR 35-38; SE 612; 691) is a copy of three articles and one editorial published on October 28, 1965. Two of the three articles were on the front page. The third appeared on page 7. The editorial appeared on the front page. One of the front page articles carried a large 8 column headline, "Beating Witness Vanishes", a two column subheadline, "Sheriff Fields Suspends Two Of His Deputies", and reads as follows:

> The key witness in the investigation of the fatal beating of a Marion County Jail inmate disappeared suddenly yesterday after he was seized twice by sheriff's deputies and interrogated by Sheriff Robert H. Fields. 2-1-5-1
>
> Meanwhile, Fields announced late last night that he has suspended two deputies, Donovan L. King and Bud Cottey. 2-1-5-2
>
> Fields said King was suspended for firing a tear gas shell in the jail, but would not give details. 2-1-5-3
>
> The sheriff said Cottey, now vacationing in New Jersey, was suspended for failure to tell his superiors of additional details he knew about the jail inmate's death. 2-1-5-4
>
> Cottey was not the deputy implicated in the key witness' statement about the beating death. 2-1-5-5
>
> Fields said he received a repudiation of the missing man's signed statement that a jail deputy was responsible for the beating, after his deputies grabbed the man and brought him to the sheriff's department before and after he testified before the Grand Jury. 2-1-5-6
>
> The witness, Charles McAdams, 35 years old, said, however, after the meetings in the sheriff's office that he gave no statement. 2-1-5-7
>
> There were these other developments in the probe: 2-1-5-8

1. The grand jury ordered eight deputies and all sheriff's investigators who had talked with the missing prisoner to testify. 2-1-5-9

2. Prosecutor Noble R. Pearcy censured Judge Eugene M. Fife Jr. of Criminal Court, Division 1, for allowing McAdams to go free, and Fife answered the charge. 2-1-5-10

3. New charges of brutality at the jail were bared. 2-1-5-11

4. The Federal Bureau of Investigation was asked to investigate the circumstances surrounding the repudiation of the sworn statement about the beating. 2-1-5-12

McAdams charged in the notarized statement Tuesday that the beating victim, Elmer L. Reagan, 50 years old, who died Aug. 7, had been attacked several times by the deputy, although the beating which led to his death by pneumonia had been blamed on a mental patient. 2-1-6-5

Reagan was beaten July 14, according to the prisoner, and the mental patient, William A. Brown, was arrested on a second-degree murder charge after sheriff's investigators stated Brown beat Reagan when they were locked in the same cell. 2-1-6-5.

McAdams was picked up by sheriff's investigators Tuesday before and after he testified before the grand jury, and released after The Indianapolis Star learned he was being held. 2-1-6-7

He later told The Star deputies stopped him at 4 p.m. and threatened to arrest him if he refused to accompany them downtown. He said he was allowed to drive his own cars while deputies followed. 2-1-6-8

"They hammered me hard with questions for about an hour then took me over to the grand jury and I testified," he said. "When I walked out Deputy Jim Mellene took me back to the jail and I had a long talk with the sheriff and then they took me back and questioned me some more." 2-1-6-9

He said he was "scared to death and nearly sick" and before he was released "one of the deputies pulled a bottle of whisky out of a drawer and said I could have it." 2-1-6-10

It was during the interrogation that McAdams repudiated his statement, Fields said. 2-1-6-11

McAdams agreed to meet with Pearcy yesterday to take a polygraph (lie detector) test but failed to appear and could not be located. 2-7-3-7

Judge Fife authorized issuance of warrants ordering him to be held for the grand jury when located. 2-7-3-8

Pearcy said he saw nothing irregular about Fields questioning McAdams before and after the grand jury testimony and Fields said he considered this within his rights. 2-7-3-9

Although Fields had his own deputies start probing a beating allegedly committed by a jail deputy he called in state police recently to investigate the disappearance of $1,100 from his executive officer's file cabinet. 2-7-3-10

Both Fields and Lt. Robert Edwards, head of the investigation division, said they knew nothing about the witness receiving a bottle of whisky. 2-7-3-11

Pearcy, meantime, said he also intends to order 11 deputies and seven prisoners to testify before the jury. 2-7-3-12

"This is the most unique and singularly important case during my administration," he said. 2-7-3-13

Pearcy said that during the time McAdams' statement was being presented to the jury by Bethel E. Gaither, chief investigator for Coroner Dr. Robert C. Collins, the jury already was reviewing Reagan's death and had heard sworn witnesses testify they had seen Brown attack Reagan. 2-7-4-5

"We have some conflicting testimony," he said. 2-7-4-6

Pearcy censured File for freeing McAdams, stating

that "he could have moved him to some other institution for safety." 2-7-4-7

The prosecutor filed a petition seeking to set aside Fife's ruling which allowed the witness to be freed from jail and Fife ordered the warrants issued for the witness, not because of the petition but because the witness failed to follow his agreement to "keep in touch and be co-operative." 2-7-4-8

Fife scheduled a hearing today and ordered Pearcy, Fields, John L. Davis, grand jury deputy, and Gaither to be present. 2-7-4-9

"This is a peculiar situation," Fife said. "It seems the prosecutor is springing to attack everyone concerned with the gathering of this case instead of considering the evidence as it was gathered and prepared by proper officials and presented to him for action." 2-7-4-10

Fields and Pearcy are close political and social friends. 2-7-4-11

Fife, who had heard the original charge from McAdams personally, said he was convinced the man was telling the truth. 2-7-5-6

The new charges of brutality included a truck driver's statement that he had been attacked by "five or six" deputies when he was jailed last January. 2-7-5-7

It also was learned that an unidentified soldier, who refused to quiet down while held in solitary confinement at the old county jail, was sprayed with a tear gas and beaten within a few days after Reagan was beaten. 2-7-5-8

A spokesman for the FBI said they will start an immediate investigation for any violation of civil rights once McAdams is located. 2-7-6-6

Pearcy said he had not decided whether to ask deputies involved in the investigation to submit to polygraph tests. 2-7-6-7

He also said he did not plan to step out of the probe

because he and Fields were friends. "My friendship with Fields will have no bearing on the outcome of this case," he said. 2-7-6-8

The missing witness was in jail on a charge of violating the Offenses Against Property Act at the time Reagan was beaten. 2-7-6-9

The second front page article in Complaint Exhibit 2 carried a small 8 column headline, "Trucker Charges Brutality In Jail," a one column subheadline, "Declares Deputies Beat Him," and reads as follows:

A truck driver charged last night that "five or six" Marion County sheriff's deputies kicked and beat him while he was a county jail prisoner for four hours last January. 2-1-1-1

One of the deputies threatened to kill him, the truck driver, Arthur L. Derringer, told The Indianapolis Star. 2-1-1-2

Derringer, 46 years old, 115 East 21st Street, said the beating took place in the basement of the old county jail, the same place where another prisoner, Elmer L. Reagan, allegedly was beaten by a deputy in July. 2-1-1-3

The alleged beating of Derringer on Jan. 10 was checked by sheriff's investigators at the time but additional reports on the investigation could not be located last night. 2-1-1-4

Prosecutor Noble R. Pearcy, when told of Derringer's notarized statement, said he would subpena Derringer to appear before the Grand Jury tomorrow. The jury also is investigating Reagan's death. 2-1-1-5

Derringer said shortly after he entered the jail he was told to remove his clothes, and after he did so he was told to bend over and was "kicked in the rear end." 2-1-1-6

He said he did nothing to provoke the deputies.

After he was kicked, Derringer said he fell on his face and another deputy struck him on the jaw with his fist.

Then one deputy told him "We're going to the basement," Derringer said. 2-1-1-7

In the basement Derringer said he was told to stand under a cold shower. Derringer said he takes medication for nerves and high blood pressure and could not stay under the water because it was "ice cold." 2-1-1-8

"I begged them to turn on some warm water but they shoved me back in the shower and called me a son of a b-----" Derringer said. 2-7-1-1

He said he stayed in the shower as long as he could, then stepped out. When he did, one of the deputies struck him behind the ear and "I fell flat on the floor," Derringer said. 2-7-1-2

Derringer said this knocked him unconscious and when he awakened "one of the deputies jumped on my stomach with both feet . . . four of them kicked me before I had time to get up." 2-7-1-3

He said he heard one of the deputies standing in the background telling the others to be careful, but they replied, "Self defense, man." 2-7-1-4

Derringer said one of the deputies told him that if he ever saw him on the street "he was going to kill me."' 2-7-1-5

Derringer said he then was placed in a cell with two other men who warned him he might be killed. The two other prisoners told him he was not the first prisoner they had seen who had been beaten, the truck driver stated. 2-7-1-6

Derringer said he later told his attorney about the incident and the attorney, Gordon Davis, checked into it, but later advised him that "we better forget it." 2-7-1-7

Davis said last night he recalled Derringer telling him about the beating, but he said he would have to check his files to determine if he had talked with the other two prisoners. 2-7-1-8

Davis described Derringer as "honest, conscientious and truthful." 2-7-1-9

Derringer was arrested about 11:30 a.m. Jan. 10 at Lynhurst Drive and West Minnesota Street on charges of public intoxication, operating a motor vehicle while under the influence of liquor, and leaving the scene of a property damage accident. 2-7-1-10

He later was convicted of the operating charge. 2-7-1-11

He said he knew of no reason why the deputies beat him. He suffered an injured lip, bruised jaw and bruises on the body. He said there were heel and foot prints on his tomach for a time, but he did not require any medical treatment. 2-7-2-1

Mrs. Willa D. Beaman, 38 years old, who was with Derringer when he was arrested by deputies and arranged to have him released on bond, complained the time that his wallet was missing when he was freed. 2-7-2-2

She notified the sheriff's department the following day and an investigation was made by Deputy Phillip Cress. 2-7-2-3

In a report, Cress said he telephoned Mrs. Beaman and during the conversation a man's voice interrupted and tried to get Cress to "ease off" the charges filed against Derringer. 2-7-2-4

Cress said in the report he told the man "the charges will stay and that I definitely will not do as you requested." 2-7-2-5

Cress said his shift supervisor, Lt. Alvin C. French, overheard the remark. He also said the man on the telephone offered to give him information on "some robberies" if Cress would drop the charges, but Cress said he refused. 2-7-2-6

Cress said Mrs. Beaman also charged that a deputy shoved Derringer down some stairs and left him in a cold shower, and Cress said he turned these charges over to Sgt. David Margon, the jail shift sergeant when Derringer was arrested. 2-7-2-7

Cress said Morgan told him that any deputies who might be involved in the incident would make supple-

mentary reports. However, no reports could be located last night. 2-7-2-8

Derringer said he knew his statement could result in an appearance before the Grand Jury, but he said "it has to stop somewhere." 2-7-2-9

He said he decided to come forth with his statement after reading about the Reagan case in The Star. 2-7-2-10

"I don't want that to happen to anyone else," he said. 2-7-2-11

He added that although he had been arrested for driving after drinking, he had had only one drink that day and had taken nerve medicine that often causes dizziness, so it may have appeared he was intoxicated. 2-7-2-12

The front page editorial in Complaint Exhibit 2 reads as follows, including headline:

LET'S HAVE

ANSWERS, ACTION!

Nothing but the truth can chase away the giant question mark that hangs today over the Marion County Sheriff's Department—or turn it into a blistering and scandalous indictment. 2-1-7-1

Allegations of murder in the jail, a beating by a sadistic deputy, a frame-up of an innocent man and attempts to intimidate a grand jury witness all add up to the ugliest compound of accusations to be made in a sorry chapter of the department's history. 2-1-7-2

Suspicion is unavoidable. These charges made by a former prisoner climax a series of irregularities which the sheriff's office has covered up. The past irregularities were brought to light only after long, hard digging by The Star. 2-1-7-3

The newest allegations add up to a sinister story. They were made by a former jail inmate who testi-

fied Tuesday before the Marion County Grand Jury. He said that a deputy sheriff kicked and beat Elmer L. Reagan, a 50-year-old inmate being held in jail on a drunkenness charge, on July 14. By the witness's account, the attack was vicious and sadistic. He said the deputy became enraged when Reagan called him a name after asking for medicine. 2-1-7-4

Regan was taken from the jail to Marion County General Hospital with 12 broken ribs and internal injuries. He died Aug. 7 as a result of pneumonia caused by the injuries, the coroner's office reported. 2-1-7-5

Both the fact that he had been beaten and that he had died were conveniently ignored by the sheriff's office. Only after The Star, upon receiving a tip, investigated, were these facts brought to light. 2-1-7-6

Then the sheriff office came up with the first version of the case, claiming Reagan had been locked in a cell with a 24-year-old mental patient, who had inflicted the fatal beating. This procedure—confining two such inmates in the same cell—in itself seemed highly irregular, as we commented at the time. A sheriff's investigator then charged the mental patient with Reagan's murder, and the charge is still pending. 2-1-7-6

Now the most serious doubt is cast upon this version of the fatal beating. 2-1-7-7

An 11-week investigation by Star Reporter Rick Johnson, based upon a tip from the former prisoner who said he knew what really had happened, led to the ex-inmate's appearance before the grand jury. 2-1-7-8

The witness later made another potentially damning accusation, claiming that sheriff's deputies had tried to intimidate him both before and after his grand jury appearance. 2-1-7-9

This specific charge deserves stern investigation, as to its truth or falsity, for it brings up this question: If the deputies did try to intimidate him, does this not lend credence to the witness's story of the beating? 2-1-7-10

Now Sheriff Robert H. Fields says he has obtained a "repudiation" of the witnesss's original account of the fatal attack on Reagan. How did he get it? What were the circumstances under which it was obtained? What would induce the witness to change his story? 2-1-7-11

Only a thorough, incisive investigation is going to answer the questions that must be answered. 2-1-7-12

Prosecutor Noble F. Pearcy has said that subpenas will be issued for all persons, including four deputies and several prisoners, named in the witness's statement. Some of the witnesses are out of town and it may be a matter of days before they can be brought here to testify. 2-1-7-13

Meanwhile, Sheriff Fields should waste no time in taking steps to improve jail internal security so that sordid and ugly episodes such as the Reagan beating are impossible. This may require personnel or technical changes or both. But they should be made at once. 2-1-7-14

As for the investigation of the witness's charges, Indianapolis and Marion County are waiting for the answers. And the community will settle for nothing less than the truth. 2-1-7-15

The third article in Complaint Exhibit 2 which appeared on page 7 (but which was referred to on the front page as follows: "Irregularities Common at Jail, Details Page 7) carried a four column headline, "Newspapermen Revealed Irregularities—Sheriff's Office Secrets Not New", and reads as follows:

Irregularities in the Marion County sheriff's department, climaxed with the controversial death of a prisoner, have become almost commonplace during the last year. 2-7-3-1

Most were kept secret from the public until dug out by newspapermen. 2-7-3-2

The list includes: 2-7-3-3

Maj. Alva R. Funk, executive officer to Sheriff Robert H. Fields, withdrew a request on Dec. 18 of last year for free gas and oil from the county for use in a "courtesy car" given him by an auto agency. The plea was canceled after a reporter began checking a tip that Funk had received the vehicle. 2-7-3-4

A rape suspect, under $10,000 bond, escaped from the Marion County Jail by using another prisoner's name and was not apprehended until Aug. 13, two days after he fled. A reporter learned of the escape, which was kept secret, but the chief jailer refused to discuss it until ordered to do so by the sheriff. 2-7-3-5

Robbery loot of $1,100 was found missing from a filing cabinet in the office of Maj. Funk April 28, but disclosure that it was gone was not made until Aug. 13. The sheriff said he ordered a check to be written from the jail commissary fund to repay the money after the firm from which it was stolen obtained a court order for its return. 2-7-4-1

During the sheriff's merit board hearing, which ended Oct. 22 with the firing of sheriff's Sgt. Charles W. Haine, the sheriff declared the alleged bribe given Haine was taken from the same county jail commissary fund. Haine contended he was "framed." 2-7-4-2

The sheriff said the $200 was marked and given Reed Johnson, brother of the alleged extortion victim, Leon Johnson. The money was to be passed on to Haine, according to Fields. 2-7-4-3

Climax to the hectic record came Tuesday with the disclosure that a former Marion County Jail inmate had declared that a county jail prisoner, 50-year-old Elmer L. Reagan, who died Aug. 7 of pneumonia brought on by a vicious beating, had been attacked by an angry deputy sheriff. 2-7-4-4

Meanwhile, even such a minor incident as the two-day suspension of a deputy for breaking into the Beech Grove dog pound to retrieve his dog was kept secret. The incident occurred July 8, but was not revealed until Aug. 18. 2-7-4-5

Exhibit 3 (to Complaint Paragraph 3).

Complaint Exhibit 3 (Tr. 49-50; 2836; SR 39-40; SE 705) is a copy of a front page article and a front page editorial published on October 29, 1965. The article carried a large 8 column headline, "Jail Beating Story Upheld", and a three column subheadline, "McAdams Confided In Her, Woman Says". This article reads as follows:

> The girl friend of Charles P. McAdams told The Indianapolis Star last night that McAdams told her he saw a deputy sheriff beat a prisoner who later died of complications. 3-1-6-1
>
> Miss Lura Kimbley, 52 years old, of Danville, Illinois, also said that McAdams told her last Friday night in a telephone conversation that he had "given a statement on a murder in the Marion County Jail." 3-1-6-2
>
> McAdams, 35, yesterday repudiated his statement that he witnessed a jail deputy beat Elmer L. Reagan on July 14. Reagan died Aug. 7 of pneumonia brought on by 12 broken ribs and other injuries. 3-1-6-3
>
> McAdams testified before the Marion County Grand Jury Tuesday. But both before and after the appearance, he was hustled to the jail for interrogation by deputies. 3-1-6-5
>
> "When he came back from the sheriff's office he was a changed man," Miss Kimbley said, "he was scared. They gave him a bottle of whiskey and he also told me they gave him drinks while they were questioning him. 3-1-6-6
>
> "They brainwashed him and he sold out." Miss Kimbley said, "And it's not right. I'll testify as to what he told me. I want no part of deals like this. If I'm going to be ruled by fear I'll take my chances." 3-1-6-6
>
> She said she believes McAdams definitely was telling the truth when he said he had seen a murder in the jail. 3-1-6-7

McAdams gave a statement to chief coroner's investigator Bethel E. Gaither and Rick Johnson, reporter for The Star, last Friday in which he said he saw Reagan beaten repeatedly by the deputy. 3-1-6-8

Although McAdams repudiated the statement, the sheriff's department took action on one incident reported in the statement. 3-1-6-9

McAdams described use by a deputy of tear gas in quelling a disturbance started in the jail by a soldier. Last night Maj. Alva R. Funk, the sheriff's executive officer, said Deputy Donovan L. King was suspended with pay Wednesday as a result of the tear gas incident. 3-1-6-10

King used a pencil-type tear gas gun to quiet the soldier being held in the old jail on a charge of being drunk, Funk said. The soldier was released to military authorities. 3-1-6-11

An investigation was made by the jail division, Funk reported, and no action was taken against King at the time because it was a "division" matter. 3-1-6-12

The sheriff last night declared that "the suspensions of King and Cottey are not punishment suspensions." Fields declared the two were suspended pending an investigation of the accusations made against them. 3-1-7-3

The beating which brought on the pneumonia which resulted in Reagan's death was blamed by the sheriff's office on a mental patient who shared a cell with Reagan. 3-1-7-4

McAdams repudiated the confession yesterday when he appeared before Judge Eugene M. Fife Jr. in Criminal Court, Division 1. McAdams was picked up in Danville, Ill., early yesterday morning after Fife authorized a warrant for McAdams because he had broken his word to keep in touch. 3-14-5-1

The girl friend said McAdams called one of her relatives in Indianapolis yesterday after his appearance before Judge Fife and told her to tell Miss

Kimbley, "Don't speak to Johnson and don't talk to anyone until you talk to me." 3-14-5-2

Judge Fife sent McAdams back to the jail to finish out a 180-day sentence for violation of the Offense Against Property Act. 3-14-5-3

In yesterday's hearing, Fife blasted Prosecutor Noble R. Pearcy for his handling of the case. The judge asked Pearcy if, in view of the close personal relationship between the prosecutor and Sheriff Robert H. Fields, he would rather step aside in the case. 3-14-5-4

"Absolutely not," Pearcy answered. 3-14-5-5

Fife asked Pearcy, "Are you serious in going forward in this case?" And Pearcy replied, "Yes." 3-14-5-6

"Then," Fife said, "I want the record to show that all concerned in this case are interested in getting to the bottom of this case." 3-14-5-7

Fife then put McAdams on the stand and began questioning him regarding an oral statement made last Thursday and the written statement made last Friday. 3-14-5-8

McAdams admitted making the statements but added quickly, "I didn't raise my hand, I didn't swear and there wasn't no seal on it." 3-14-5-9

Fife said, "Well, I can see I made a mistake. Your sentence is hereby reinstated and you'll serve your term in jail." 3-14-5-10

Fife said later, "When he started that jail house lawyer 'weaseling' it was evident he had been expertly coached." 3-14-5-11

Fife then launched an attack on the prosecutor saying: "We have a free man who indicated he would co-operate with the proper authorities and he did so until he was released from jail. Something has happened." 3-14-5-12

"I tried to send you a new witness," Fife told Pearcy, "and I get a blast from you. I'm getting

a little tired of being blasted just because I refuse to be a rubber stamp for the prosecutor." 3-14-5-13

Fife then turned his remarks toward the grand jury which was present. 3-14-5-14

"I'd also like to remind you that the grand jury is an independent body and not an adjunct of the prosecutor's office. They are still considering this case and I want to make no decisions today which would affect the outcome of their deliberation," he said. 3-14-6-1

Gaither said that Coroner Dr. Robert C. Collins has taken a personal interest in this case and is probing the beating death with his informants. 3-14-6-2

"So far, everything we've turned over to the grand jury might as well have been poured out in the hall," Gaither said. "I believe McAdams told the truth in his statement to me but I think he's lying now and he has been expertly coached. He's been told what to say, how to say it and he's lying. 3-14-6-3

"But," Gaither added, "there is a mess in that jail and sooner or later it will come out. Trying to cover it up will be like trying to sweep an elephant under the rug." 3-14-6-4

Fife and Gaither agreed that the entire incident is an outrage to the community. 3-14-6-5

McAdams and Boon Wise, a former prisoner at the jail, testified before the grand jury in the morning. Witnesses questioned in the afternoon were Star reporter Johnson, Gaither, William McMasters, the lawyer who notarized McAdams' statement, and Raymond (Pat) Patterson, one of Fife's bailiffs who witnessed the notarization. 3-14-6-6

Nearly 10 deputy sheriff's were on hand to testify but the day ended before they could be called. They have been ordered to reappear today, Pearcy said. 3-14-6-7

In statements after his hearing before Fife, McAdams told an interviewer why he retracted his statement. 3-14-6-8

"I wanted the truth to come out about this man, Rick Johnson; he's a dangerous man . . . He seems to be trying for a political pull in this town." 3-14-6-9

The interviewer said, "There have been rumors that he (Johnson) might be interested in being the sheriff himself someday. Is this true?" 3-14-6-10

McAdams answered, "Could be. Could be. I just wanted it to come out about him so that people would know." 3-14-6-11

He told another interviewer that his motive for repudiating his statement was "To get released . . . just to get released, and uncover Rick Johnson . . . he was always hanging around me . . . I was scared of him . . . everytime I looked around Rick Johnson was there. 3-14-6-12

(Johnson did not meet McAdams until last week when McAdams asked to meet him about information he had concerning the Reagan death.) 3-14-7-1

McAdams also said that Johnson did not tell him to lie. 3-14-7-2

In answer to a question about whether he would rather be outside, McAdams said: 3-14-7-3

"No, there is no other place I would rather be than in the security of the jail." 3-14-7-4

McAdams also was asked if in view of having given contradictory statements, he was "fearful of the consequences." 3-14-7-5

McAdams hesitated, looked around and said, "I have protection." 3-14-7-6

Pearcy said it would be up to the grand jury to decide whether or not to press perjury charges against McAdams for making a false statement. 3-14-7-7

Meanwhile, a hospital worker yesterday said she saw the injuries which an Indianapolis truck driver has charged were inflicted on him by "five or six" deputy sheriffs in the basement of the jail last January. 3-14-7-8

Mrs. Willa D. Beaman, 38, said she was dating the

trucker, Arthur Leo Derringer, 46, 115 East 21st Street, last January and was with him when he was arrested and when he was released four hours later at the jail. 3-14-7-9

Mr. Beaman, who since has married, said Derringer had no injuries when he was led away to be jailed by deputies, but that when he was released and walked from the door of the jail she said she noticed he had suffered a split lip. 3-14-7-10

Later, she said Derringer showed her bruises on his stomach and a heel imprint on his stomach which Mrs. Beaman said "stayed four or five days." She said injury showed "clearly" the imprint of a heel of a shoe. 3-14-7-11

Derringer, however, told Mrs. Beaman he had been "shoved down a stairway and left beneath a cold shower for a long time." 3-14-7-12

The trucker is scheduled to appear before the Marion County grand jury today to give details of the alleged beating. 3-14-7-13

The front page editorial in Complaint Exhibit 3 reads as follows, including headline:

SOME MORE QUESTIONS.

It seems odd to us that Prosecutor Noble Pearcy should see nothing wrong in the fact that deputies from the sheriff's office and the sheriff himself should call a chief witness, who had appeared before the grand jury for interrogation, and get a retraction of his grand jury testimony from him. 3-1-7-6

After all, it is the sheriff's office that is accused of wrongdoing. If every accused wrongdoer had the opportunity to interrogate his accused as was done in this case, you sure wouldn't have many willing grand jury witnesses for any case. It is, to say the least irregular to permit the accused to cross examine the accuser outside of the court, particularly when he has the power of the sheriff's office behind him. 3-1-7-7

Another question: If the sheriff and his deputies had nothing to fear from a grand jury investigation, if they know that they are in the clear on the charges against them, why did they not just let the investigation proceed and clear them of the charges? Why did they grab the witness and haul him down to the jail which led to his changing his story? If it is untrue, could they not prove it by the facts and records already in existence? 3-1-7-8

It makes you wonder, doesn't it? 3-1-7-9

Exhibit 4 (to Complaint Paragraph 4).

Complaint Exhibit 4 (Tr. 51-52; 5255; SR 41-42; SE 714) is a copy of a front page article published on October 30, 1965. It carried a large 8 column headline, "Witnesses Get Protection", a four column sub-headline, "Woman's Fear In Beating Case Stirs Judge, Grand Jury Action", and reads as follows:

An airtight curtain of protection was guaranteed yesterday to all witnesses, past or future, who testify regarding alleged beating of prisoners in the Marion County Jail. 4-1-5-1

The Marion County Grand Jury and Judge Eugene M. Fife, Jr., Criminal Court, Division 1, moved to protect all witnesses when Mrs. Lura Kimbley, 53 years old, Danville, Ill., said she was afraid deputy sheriffs would grab her and treat her the same way they had her boy friend, Charles P. McAdams, 35. 4-1-5-2

Before Mrs. Kimbley testified yesterday in the grand jury, Fife and the jury provided protection for her and offered the same protection to any other witness who wishes to testify. 4-1-5-3

McAdams first made a notarized statement that he saw a deputy sheriff beat Elmer L. Reagan, 50, who later died of pneumonia brought on by 12 broken ribs and other injuries. 4-1-5-4

But McAdams was hustled to the jail for interrogation by deputies both before and after his grand jury appearance Tuesday. He then repudiated his previous statement. 4-1-5-5

Mrs. Kimberly said that McAdams previously had told her of seeing Reagan beaten by the deputy. She also said that McAdams told her last Friday in a telephone conversation that he had "given a statement on a murder in the Marion County Jail." 4-1-5-6

Fife ordered Mrs. Kimberly to be escorted to and from the grand jury by his bailiff. The grand jurors responded by declaring Mrs. Kimbley a continuing witness and thereby placing her under the protective custody of the court and the grand jury. 4-1-6-2

"At no time is this woman to be contacted or questioned by anyone," Fife ordered, "if it is necessary for any member of the sheriff's office to question her, it will be done in my presence only." 4-1-6-3

"And woe be to anyone who tampers with someone under the protection of this court and the grand jury," Fife warned. 4-1-6-4

Another witness before the grand jury yesterday was Arthur Leo Derringer, 46, Indianapolis truck driver who testified about a beating he said he received in the jail nine months ago. 4-1-6-5

Derringer challenged the "five or six" deputies he said beat him to take public or private lie detector tests to clear up the incident. 4-1-6-6

Meanwhile, it was learned that all available information gathered by the Federal Bureau of Investigation, regarding a possible violation of McAdams' civil rights in his questioning by sheriff's deputies, has been forwarded to Washington, D. C., for further investigation. 4-1-6-7

McAdams in his statement Friday said that a deputy sheriff, and not a mental patient had beaten Reagan on July 14. 4-1-6-8

Mrs. Kimberly said McAdams told her, after his release from sheriff's investigators, that he had been

given drinks of whiskey during his questioning by deputy sheriff's, and was given nearly a fifth of whisky when he left the office. 4-1-6-9

McAdams' girl friend said prior to his pickup by deputies Tuesday afternoon, that McAdams was free and happy and told her he had seen a deputy murder a man in the jail, identifying both the assailant and the victim. 4-17-1-1

"But he'd say and do anything when he's on whisky," she said. And then she added, "I won't change my story no matter what happens but I can see why Charles did if they treated him while questioning him like they did when he was picked up early Thursday morning." 4-17-1-2

Mrs. Kimberly said she was awakened by a knock on her door at 4:30 a.m. Thursday—and when McAdams got up to answer it, a policeman burst through the back door of her trailer as another policeman entered the front door. 4-17-1-3

She said they jostled McAdams around after placing him under arrest, and put handcuffs on him . . . "It was cold and they wouldn't even let me give him a coat. I asked him what the deal was and he told me he didn't know. I was afraid they'd kill him and then I got to thinking if Charles told them he had confided in me, that they might come after me. Then I got scared," she said. 4-17-1-4

For her safety, Mrs. Kimbley was brought to Indianapolis Thursday night and taken to Judge Fife early yesterday morning. 4-17-1-5

Mrs. Kimberley told Judge Fife that she was sure McAdams had told the truth when he said he saw a deputy sheriff beat a man to death. 4-17-1-6

"He was all right until they (the sheriff's department) got him. Then they brainwashed him, fed him whisky and told him what to say. When he sobered up he knew he'd done wrong and he was sorry. They knew his weakness and they used it," she said. 4-17-1-7

Sheriff Robert H. Fields said McAdams "voluntarily" accompanied two deputies and a cameraman from Danville, Ill., Thursday morning. Earlier, the sheriff also said he knew nothing about McAdams being given any whisky during his questioning. 4-17-1-8

Asked whether he thought questioning of McAdams by the sheriff's department was improper, Prosecutor Noble R. Pearcy said, "No. I think any sheriff would be derelict in his duty not to question the accuser." 4-17-1-9

"Both the police and sheriff's deputies conduct investigations in any alleged crime," he added. McAdams had accused only three deputies, not the whole sheriff's department, Pearcy said. 4-17-1-10

Fields said McAdams repudiated the statement he gave The Star during questioning after his grand jury testimony Tuesday. Pearcy declined to say when McAdams repudiated his statement. 4-17-1-11

Both his girl friend and former cellmate said they had heard him say he saw a deputy beat a prisoner who later died. 4-17-1-12

A parolee told The Star Thursday night that he entered the Marion County Jail in July, and although he didn't witness the beating, he heard conversations between McAdams and the cell boss, in which McAdams told a story almost identical to the statement he gave chief coroner's office investigator Bethel E. Gaither. 4-17-1-13

The parolee said he would like to testify about the beating and other incidents of brutality in the jail, but he feared reprisal by deputies if he ever went to jail again. 4-17-1-14

"If they ever found out I was talking it wouldn't be safe for me to walk the street," the parolee said. He added, "There are a lot of guys who could tell plenty if they weren't so scared. Keep going—you haven't even scratched the surface." 4-17-1-15

The parolee also said, "I know McAdams. He would

never have broken if he hadn't been forced. He just wasn't that way." 4-17-2-1

The grand jury heard testimony from 16 persons yesterday. Questioned were: Sheriff's Lt. Walter (Smokey) Davis—concerning a call from a deputy that tear gas was shot in a cell in the county jail; Deputies Michael Smilko and Roscoe E. Kennedy—alleged knowledge of the beating of Reagan; Sgt. Robert M. Smith—investigation of a charge that a mental patient kicked Reagan on July 14; Sgt. James Mellene—concerning taking McAdams to and from the grand jury hearing on Tuesday; Deputy Jack Churchill—concerning alleged treatment of Reagan for open sores; Gordon Davis—attorney for Derringer when he was arrested and allegedly beaten, and Mr. and Mrs. Lee Bowling—concerning picking up of McAdams at their home by sheriff deputies Tuesday.

Others appearing were: Deputies David Warholak and Willard Mosley, Sheriff's Sgt. Richard Warum and State Trooper Kenneth Houck. 4-17-1-2

Derringer said he was kicked and beaten by deputies during a four-hour stay at the old jail Jan. 10 after he was arrested on a charge of operating a motor vehicle while under the influence of liquor. 4-17-2-3

Derringer said he had "everything to lose but my conscience to maintain" in testifying about the case. 4-17-2-4

The trucker told reporters outside the grand jury room that his attorney, Gordon Davis, had conducted an investigation of the alleged brutality and later told Derringer it would be "best to drop it." 4-17-2-5

Davis was called to testify before the jury shortly after Derringer's appearance. 4-17-2-6

Sheriff's executive officer Maj. Alva Funk said reports were submitted by deputies stating that Derringer had twisted the arm of a deputy. Funk said he was not familiar with the reports and could not relate details. 4-17-2-7

The reports, written in longhand, were found last

night by an Indianapolis Star reporter in the central record file at the sheriff's office. 4-17-2-8

The same files had been checked Wednesday night when Derringer made his accusation to The Star but the supplementary reports by the deputies were not found at that time. 4-17-2-9

Funk explained that by saying that the deputies' accounts of the beating had been placed in "personnel files" and were not "public case reports." 4-17-2-10

The reports by shift Sgt. David R. Morgan and six other deputies accused Derringer of becoming "abusive" and of twisting Morgan's arm. Morgan since has resigned from the department. 4-17-2-11

Exhibit 5 (to Complaint Paragraph 5).

Complaint Exhibit 5 (Tr. 53; 4435; SR 43; SE/572) a copy of a front-page article published on October 31, 1965, with a large 8-column headline, "Prisoners Tell Of Beating," a three-column sub-headline, "County Jail Incidents Revealed 1 Year Later," and reads as follows:

Pendleton, Ind.—An Indiana State Reformatory prisoner said in a signed statement yesterday that he was beaten severely by a deputy sheriff at the Marion County Jail a year ago. 5-1-6-1

Three other prisoners signed statements saying they witnessed the beating of James P. Dearing, 23 years old, 1205 Polk Street, Indianapolis.

One of the trio also said he witnessed the beating of Arthur Leo Derringer, Indianapolis truck driver, which already is under investigation by the Marion County Grand Jury. 5-1-6-2

Dearing, who is serving two concurrent 10-year terms for armed robbery, said he was beaten in the "Federal Cell Block" of the old Marion County Jail for his part in a jail riot, which occurred Oct. 11, 1964. 5-1-6-3

The statements made by all four of the reformatory

inmates were given in the presence of James W. Buck, superintendent of the reformatory. They will be turned over to the Marion County Grand Jury tomorrow. 5-1-6-4

All four inmates said they are willing and eager to testify before the grand jury about alleged brutality in the Marion County Jail. 5-1-6-5

All four said they would be willing to take lie detector tests to demonstrate the truth of their statements. 5-1-6-6

The three inmates who said they saw Dearing beaten are Henry L. (Hank) Reuter, 26, 501 St. Paul Street, William Dean Anthony, 1029 East Ohio Street, and Rodney McLean, 22, 523 East Warsaw Street, all of Indianapolis. 5-1-6-7

Reuter said he was a cellmate of Derringer and saw the truck driver beaten by "two or three deputies." 5-1-6-8

Dearing, who has a long police record and is an admitted hold-up artist, said a sergeant in the sheriff's department "beat me with his fists from the shoulder up" after the riot. Prisoners had flooded the floor by causing toilets to overflow and set mattresses afire by piling them on a range. 5-1-7-2

Dearing said he was unable to count how many times he was hit. 5-1-7-3

"Quite a few times, though," he said, "enough that he couldn't take me to court when I was supposed to go." 5-1-7-4

He said the sergeant accused him of being one of the two people who incited the riot. Dearing denied that but admitted "I did my part" in it. 5-1-7-5

He said the sergeant finally knocked him down into the water which was flooding the floor. 5-1-7-6

Dearing said that as a result of the beating, he had a "ringing" in his right ear for a long time, his face was swollen, his right eye blacked and his neck swollen. 5-1-7-2

Dearing said that after the beating, he was put in "the hole," a big steel cage with no toilet facilities, and left there for five days. He said he was served only two meals during the five days. 5-12-1-1

Dearing also said he had seen many drunks beaten by deputies. The reformatory inmate said that prisoners with delirium tremens are given no consideration by deputies and when deputies are informed jail prisoners are in such a condition, they merely say "shove them back into the corner." 5-12-1-2

Dearing also recounted an episode in which he said he was beaten by an Indianapolis policeman and knocked down "five or six times" when he gave "John Doe" instead of his real name when arrested. 5-12-1-3

Reuter said that he saw deputies hit Derringer on the kidneys and slap him in the face and that Derringer then was taken down to the basement of the jail. 5-12-2-1

After that, Reuter said, he heard a lot of yelling and noises coming from the basement. 5-12-2-2

All four of the inmates said that it was generally understood at the jail when a prisoner was taken "down to the basement," it meant he was going to be beaten. 5-12-2-3

"Have you seen other prisoners beaten at the Marion County Jail?" Reuter was asked. 5-12-2-4

"I have and will swear to it," he said. "I have seen at least 10 prisoners beaten at the jail. I saw three in one night." 5-12-2-5

Reuter then was asked why the deputies beat the prisoners. 5-12-2-6

"If you want my opinion," he said, "I think they're a bunch of sadistic ..... s." 5-12-2-7

Reuter said that he saw Dearing beaten by the sergeant for "four or five minutes." 5-12-3-1

At the time of the riot, deputies blamed Dearing, Reuter and another prisoner for being responsible for it. Deputies said the three contended their television privileges had been unduly denied. 5-12-3-2

Anthony said he had personally seen four different prisoners beaten in the jail. They were Dearing, a Bobby Wright and the Blake brothers, Charles and Walter, he said. He said all were beaten the night of the riot. 5-12-3-3

McLean said that before the sergeant started beating on Dearing the deputy shouted repeatedly, "I'm going to kill you . . . I'm going to kill you." 5-12-3-4

McLean also said he saw a mental patient beaten while the patient was in "the hole." He named the deputy who did the beating, but did not know the name of the patient. 5-12-4-1

The statements by the prisoners were the latest chapter in the mushrooming story of apparent brutality in the jail which has been unfolding since The Indianapolis Star started an investigation into the death of Elmer L. Reagan. 5-12-4-2

Noble R. Pearcy, Marion County prosecutor, said yesterday that "several witnesses" have been summoned to testify tomorrow when the grand jury resumes its investigation. 5-12-4-3

The jury probably will spend most of the morning conferring about the information given by 17 witnesses who testified Friday, Pearcy said. 5-12-4-4

Exhibit 6 (to Complaint Paragraph 6).

Complaint Exhibit 6 (Tr. 54; 4208; SR 44; SE 530; 731) is a copy of a front page article published on November 1, 1965, with a large 8 column headline, "More Jail Beatings Told", a two column sub-headline, "Inmate Charges Mistreatment Of Prisoners", and reads as follows:

A prisoner at the Indiana State Penal Farm at Putnamville yesterday charged two men were beaten by sheriff's deputies while he was an inmate at the Marion County Jail. 6-1-7-1

Another former jail inmate also charged deputies mistreated prisoners, including one case where an

inmate, forced to sit naked on a soggy mattress, was jabbed continuously by a deputy with a wooden stick. 6-1-7-2

The statements by the penal farm prisoner, James Hiram Daniels Jr., and the other former inmate, Charles E. Hembree, were the latest in the burgeoning investigation of alleged brutality at the jail. 6-1-7-3

Daniels, 21 years old, Indianapolis, made his statement in the presence of D. L. Hudkins, assistant superintendent of the penal farm, and said he was willing to testify before the Marion County Grand Jury. 6-1-7-4

The jury has been investigating jail brutality since The Indianapolis Star revealed last week that one inmate, Elmer L. Reagan, who died in Marion County General Hospital of pneumonia caused by a beating, allegedly was attacked by a deputy. 6-1-7-5

Hembree, 33, 1232 East Bradbury Street, signed a notarized statement and also agreed to testify before the jury. 6-1-7-6

Both statements will be given to the jury today along with statements from five prisoners at the Indiana State Reformatory who said they witnessed beating at the jail. 6-1-7-7

Daniels, serving a 1-year term for first-degree burglary, said he saw two sheriff's sergeants beat two prisoners. 6-1-7-8

In one of the beatings a sergeant fired a tear-gas pistol into a maximum security cell.

The latter incident occurred in late July or early August and was witnessed by five deputies, Daniels said. 6-1-7-9

Daniels said the tear gas pistol was fired at a soldier who had been held in solitary confinement for several days. He said the prisoner had been pounding on his cell door and asked the sergeant for medicine. 6-1-8-3

Daniels said the sergeant told the prisoner there was no medicine, and then left. The prisoner started

pounding on the door again, and the sergeant returned and fired the pistol into the cell. 6-1-8-4

When the prisoner did not stop pounding, the sergeant returned, "took him out of the hole, took him out in front of the cell blocks on the main floor and hit him in the face several times," Daniels said. He identified both the sergeant and prisoner. 6-15-2-1

Sheriff [redacted]ert H. Fields suspended Sgt. Donovan King last [redacted]k, for firing a tear gas gun in a cell, but would not give details. 6-15-2-2

Daniels also said other deputies beat another prisoner, another sergeant struck a new inmate who was intoxicated, and other inmates, mostly drunks, were mistreated by deputies. 6-15-2-3

Daniels who has been arrested several times, also stated that a man now serving a term at the Indiana State Reformatory at Pendleton was struck on the head several times while Daniels was a jail inmate and then evidently tossed down a flight of stairs. 6-15-2-4

"I saw when they brought him up and his face was swelling and red," Daniels said. 6-15-2-5

He also said in the statement inmates often were held with handcuffs so tight their wrists swelled and "you couldn't see the cuffs." 6-15-2-6

He said he once was kept in a cell with a mental patient for a week, and he and seven other inmates were held in cells in the new jail—before it was opened—and were left alone there for four or five days except when a deputy brought their meals. 6-15-3-1

Daniels was a jail inmate from Jan. 9 to Sept. 9. 6-15-3-2

Hembree, a veteran of the Korean War, said, "I served one year in Korea and I'd rather do that again than spend one day in the Marion County Jail." 6-15-3-3

Hembree said he was held in the jail four times, all for traffic violations. The incident where the inmate

was jabbed with the stick occurred in 1959, he said. 6-15-3-4

He said he believed the deputy poked the man because the inmate would not keep quiet. "He was talking and kind of made the deputy mad," Hembree said. 6-15-3-5

Hembree said he did not know if the prisoner was injured because he was taken away to be processed. He said "other prisoners in my cell said that it took three guards to work on him, but I don't know what that meant." 6-15-3-6

One time in 1959 other prisoners beat an inmate while deputies stood by watching, Hembree said. 6-15-3-7

The prisoner had refused to eat so three prisoners put him against a wall and slapped and kicked him while the deputies watched, Hembree said. 6-15-3-8

Hembree said he never was mistreated. Asked who was, he said, "Anybody who said anything out of line. If you kept your mouth shut, you kept out of trouble." 6-15-3-9

He described conditions at the jail as "unbelievable." 6-15-3-10

The Grand Jury also has heard charges from a truck driver that deputies beat him when he was a jail prisoner. 6-15-3-11

All persons who testify in the case have been promised protection by the jury and by Judge Eugene M. Fife, Jr. of Marion Criminal Court, Division 1. 6-15-3-12

Exhibit 7 (to Complaint Paragraph 7).

Complaint Exhibit 7 (Tr. 55; 4198; SR 45; SE 519) is a copy of a front page article published on November 2, 1965, with a large 8 column headline, "Witness Protection Gains", and a two column sub-headline "Rabb Promises Safety; 2 More Charge Beatings". The article reads as follows:

> Protection for witnesses who testify before the Marion County Grand Jury in the steamrolling investigation of brutality at the Marion County Jail was promised by a second Criminal Court judge yesterday. 7-1-7-1
>
> Meanwhile, two more former jail inmates charged that they were beaten by deputies and a third complained he had been mistreated and threatened at the jail. 7-1-7-2
>
> Judge Saul I. Rabb of Criminal Court, Division 2, joined Judge Eugene M. Fife, Jr. of Division 1 in offering protection for jury witnesses. 7-1-7-3
>
> Rabb and Fife said all persons who testify would become 'continuing witnesses" and thereby placed under the protection of both criminal courts and the grand jury. 7-1-7-4
>
> Fife ordered last week that jury witnesses were not to be bothered or questioned before or after their testimony, and questioning of any witnesses by sheriff's personnel was to be done in his presence. 7-1-7-5
>
> Rabb concurred with Fife and added that questioning of witness outside the jury room would take place only while he was present or in the presence of his court reporter. 7-1-8-4
>
> However, since any grand jury indictments would be returned to his court, Rabb said he did not want to prejudice himself by hearing any of the evidence. 7-1-8-5
>
> Persons found guilty of tampering or intimidating

witnesses or impeding justice could be fined from $10 to $500 and jailed from 10 to 60 days if convicted. 7-1-8-6

The stepped-up protection for witnesses came after Sheriff Robert H. Fields and deputies seized one witness last week and questioned him before and after he appeared before the grand jury. 7-1-8-7

The witness, Charles P. McAdams, 35 years old, had signed a notarized statement accusing a sheriff's sergeant of the fatal beating of an inmate, but according to Fields, repudiated the statement during the questioning by Fields and deputies. 7-1-8-8

The mistreatment charge disclosed yesterday came from a convict serving a 25-year term for bank robbery who will be returned to Indianapolis to stand trial in Federal Court for the November, 1963 robbery of a savings and loan firm. 7-1-8-9

Attorney William C. Erbecker, who is defending the prisoner, Harold Kaufman, 42, filed a writ of habeas corpus requesting that Kaufman not be brought back to the Marion County Jail for either the writ hearing or the trial. 7-1-8-10

"Kaufman fears for his safety in the jail," Erbecker said. "He's a hardened criminal but he can't take that place." 7-1-8-11

Erbecker said he and Kaufman were willing to testify before the grand jury to disclose how Kaufman was mistreated. 7-10-3-1

The beating charges were made by Denzil Loren Neville, Jr., serving a one-year term at the Indiana State Penal Farm at Putnamville for vehicle theft, and Jimmy Harold Green, 17, serving a 10-to 25 year term at the Indiana State Reformatory at Pendleton for robbery. 7-10-3-2

Neville gave a notarized statement in the presence of D. L. Hudkins, assistant superintendent of the farm, charging that his nose was broken during a beating and he was held without food in the jail "hole"—solitary confinement—for three days. 7-10-3-3

Neville, 22, said he was struck "in the stomach" by a tall sheriff's sergeant when he refused to take a cold shower. 7-10-3-4

"I was about half drunk and the water was cold and I wouldn't stay under it," he stated. 7-10-3-5

All incoming prisoners are required to take showers at the jail as a sanitary precaution. 7-10-3-6

"The sergeant said I was calling him vulgar names. I don't remember calling him names but he said I was and he hit me in the stomach and in the nose." 7-10-3-7

"He broke my nose. They didn't never take me to the hospital, but look at my nose, it's all out of shape." 7-10-3-8

Neville, who has a long criminal record dating back to 1961, said he was put in the "hole" for three days and was not given food. Another inmate managed to bring him "some bread" to eat, he stated. 7-10-3-9

He said that marks on his wrist which still are visible are the result of handcuffs being placed on him too tightly when he was in solitary confinement. 7-10-4-1

He did not know the name of the sergeant who struck him, but said he could identify him. Another inmate, however, provided the sergeant's name. 7-10-4-2

Neville also recalled seeing an old man pushed against a wall and knocked unconscious last July. He said he had heard that the man died later. 7-10-4-3

The prisoner also said he was stripped to his undershorts and struck by a deputy when he was arrested in August for car theft. 7-10-4-4

He said he decided to give the statement because "I believe it's about time they put someone on the sheriff's department who would treat the prisoners a little better." He agreed to testify before the grand jury if called. 7-10-4-5

Green signed a notarized statement in the presence of R. I. Hinkle, director of the identification section at the reformatory. 7-10-4-6

Green, who first was arrested when he was 14, said he was drunk or nearly drunk" when he was brought to the jail June 9 and was "slapped" on the head. 7-10-4-7.

Green said he began arguing with the deputy and a sergeant stepped in. Green said the sergeant told two other deputies to "take me downstairs and give me a shower." 7-10-4-8.

At the top of the staircase leading to the basement the deputies began beating him and the next thing he remembered was waking up at the bottom of the stairs with a deputy "kicking me," Green said. 7-10-4-4

He said two deputies then picked him up and beat him "all the way to the shower and then threw me in the shower . . . One would hold me while the other hit me," he said. 7-10-5-1

He named the two deputies he accused and said he would testify before the jury if asked. 7-10-5-2

"I thought I was beaten up for no reason at all," he said. 7-10-5-2

The jury heard testimony from 14 witnesses yesterday. Observed in the jury waiting room were David R. Bland, deputies, John Moore, Ralph Leibrandt, Ed Owens, James Burris, Robert Kirkham, Joseph Johnson and Sgt. Felson Bowman, and Ronnie Wise, a deputy in Vermillion County, Illinois. 7-10-5-3

Others who testified were former deputy David Morgan, Bennie L. Peak, and the two jail chaplains, the Rev. Harrison Neal of Irvington Presbyterian Church and the Rev. Jack Burrell of Faith United Presbyterian Church. 7-10-5-4

Because the jail probe continues to grow, Deputy Prosecutor James E. Bath informed Rabb and Fife yesterday that the jury would not return its regular report today. 7-10-5-5

Exhibit 8 (to Complaint Paragraph 8).

Complaint Exhibit 8 (Tr. 56-57; 5257; SR 46-47; SE 739) is a copy of two front page articles which published on November 3, 1965. One carried a large 8 column headline, "100 To Testify About Jail", a two column sub-headline, "Ex Inmate Terms Conditions Bad As In POW Camp", and reads as follows:

> Eighteen persons testified yesterday in the Marion County Grand Jury investigation of brutality at the county jail, and 35 more bringing the total to about 100 are expected to testify before the probe ends. 8-1-7-1
>
> There were these other developments in the mushrooming jail probe: 8-1-8-2
>
> 1. A 35-year-old Indianapolis facory worker stated that deputies beat a prisoner while he was a jail inmate in September, and said deputies did not intervene when inmates were beaten by other inmates. 8-1-8-3
>
> 2. A former sheriff's deputy, describing jail conditions as "almost medieval," delivered a scorching criticism of the jail operation. 8-1-8-4
>
> 3. Deputies have picked up several former jail inmates and obtained statements from them that there have been no jail beatings and overall condition of the jail is good, a reliable source said. 8-1-8-5
>
> 4. Calvin B. Howard, local agent in charge of the Federal Bureau of Investigation, said a request to check possible civil rights violations at the jail has been turned over to the FBI's civil rights division. 8-1-8-6.
>
> The factory worker, James M. Byers, 1102 East Naomi Street, who spent nearly three years in a Chinese prisoner of war camp during the Korean War, said he had "never seen a fellow American being treated worse than the inmates at that jail." 8-1-8-7

James E. Bath, deputy prosecutor in charge of the grand jury, said the jury will not meet today but will resume the probe tomorrow and plans to hear testimony from at least two jail inmates and four other persons. 8-1-8-8.

Since the jury investigation started, following a report by The Indianapolis Star on the fatal beating of inmate Elmer L. Reagan, 11 former inmates have told of brutality at the jail. 8-1-8-9

Byers said in a signed statement he was arrested near his home Sept. 8 on a charge of drunkenness and was in the jail six days before he was released on bond. The charge later was dismissed. 8-1-8-10

The father of three children, he said he saw an inmate named Davis being beaten by "I don't know how many deputies." 8-18-3-1

Byers also said while he was there a number of juveniles were being held in the jail, and one boy, 14, whom Byers later talked with, was beaten by other inmates. Other juveniles also were beaten by inmates, Byers said. 8-18-3-2

Byers said he was in a cellblock, designed to hold 27 men, with 41 other inmates. 8-18-3-3

"The kids couldn't defend theirselves and the deputies didn't make no rounds to check the cellblock," he said. 8-18-3-4

Byers, who said he is a disabled veteran, described the cellblock as filthy. He said debris was piled in an aisleway for six days. 8-18-3-5

Byers, who said he spent 35 months in a POW camp in Korea, agreed to testify before the jury if called. 8-18-3-6

The jury probe started after The Star obtained a signed statement from an inmate, Charles P. McAdams, charging a jail sergeant with the fatal beating of Reagan on July 14. 8-18-3-7

Sheriff Robert H. Fields said McAdams later repudiated the statement during questioning by the sheriff and deputies, but McAdams' girl friend, Mrs.

Lura Kimbley, said McAdams told her he was given whisky during the interrogation. 8-18-3-8

Eleven prisoners, five deputies and four civilians were called by the jury yesterday, but two prisoners, James P. Marshall and Forest Stalnaker, did not testify. 8-18-3-9

The prisoners who testified were Otis Maier, James Dearing, Stanley Wethington, Menlow John Short, Otto Dearing, James H. Daniels, Henry Reuter, Rodney McLean and Billy Dean Anthony. 8-18-3-10

The deputies were George Tow, Floyd Grundon, James Allen and Arthur Cottey. The civilian witnesses were George Cox; Juanita Spicer, Dixie Atkins and James Cavanaugh. 8-18-3-11

Cottey has been suspended by Fields for allegedly withholding information about the beating of Reagan. Another deputy, Sgt. Donovan King has been suspended for firing a tear gas shell into a cell. 8-18-3-12

The former deputy asked that he not be identified, but said he was willing to testify before the grand jury. He worked at the old jail, where Reagan was beaten, and which was closed several months ago. 8-18-3-13

"The majority of the men who work in the jail have absolutely no training and even less patience in dealing with prisoners," he stated. "There are an awfully lot of drunks slapped and knocked around, and for no other reason than the deputy lost his patience." 8-18-3-14

The ex-deputy said he resigned from the department for personal reasons and "because I couldn't take it any more." 8-18-3-15

He was especially critical of treatment given to mental patients, stating that "some were chained like dogs in a cage in the basement." 8-18-3-16

"They didn't have any toilet facilities in the cage and those poor devils had to roll in their own filth. The only times they were moved or cleaned up was when a reporter made a visit or when the grand jury came over to look around." 8-18-3-17

He told of one time when three deputies taunted a mental patient known as "The Bear" and beat the patient because he tore off the badge of one deputy. He identified one of the three. 8-18-3-18

"Deputies in that jail know guys are knocked around, but they don't want to say anything," he declared. "And plenty of prisoners see beatings, too, but they're all afraid to talk. It's disgusting." 8-18-3-19

Sheriff Fields said he did not have any information about whether his deputies had taken statements from former prisoners on jail conditions. 8-18-3-20

However, it was learned that one former inmate, Boone Wise, was picked up by deputies at 6 p.m. last Wednesday and held until 1 a.m. Thursday and gave a statement during that time. Another statement reportedly was received from another ex-inmate. 8-18-3-21

Fields said his deputies have talked with a "great number" of former inmates, who have told them they did not witness any beatings, in a "continuing investigation" of the charges against the jail. 8-18-3-22

The FBI was asked last week to look into the jail probe. Howard said the FBI is not investigating any of the charges, but has referred the matter to the civil rights division which is awaiting a report from the grand jury before deciding whether to act. 8-18-3-23

All witnesses who give the jury information about the jail probe have been promised protection by Criminal Court Judges Eugene F. Fife Jr. and Saul I. Rabb. 8-18-3-24

The second front page article in Complaint Exhibit 8 carried a one column headline, "Key Witness In Haine Case Missing", and reads as follows:

A 23-year-old Brooklyn (N. Y.) man, key witness in the case against fired sheriff's investigator Sgt. Charles W. Haine, has disappeared, Eastern probation officers revealed yesterday. 8-1-7-2

A warrant for the man, Robert Squillan, was ordered issued by Judge M. Fife, Marion Criminal Court, Division 1, following a sheriff's department merit board meeting at which Haine was fired, it was learned yesterday. 8-1-7-3

It is believed Squillan may have fled to Germany. 8-1-7-4

Squillan and his mother, Mrs. Florence Dagrossa, gave Haine money to obtain a suspended sentence and probation on a robbery charge against Squillan last March, according to sheriff's deputies. 8-1-7-5

Mrs. Dagrossa declared this was true at the hearing, and reported her son had run away from home rather than testify. 8-17-7-6

After learning of Squillan's disappearance, Fife ordered the warrant on a charge of violation of probation. 8-18-5-1

Judge Fife yesterday said he took the action because he and Squillan's attorney, William C. Erbecker, had received letters from Squillan saying that sheriff's Sgt. Felson Bowman had threatened and forced him and his mother to sign statements against Sgt. Haine. 8-18-5-2

Mrs. Dagrossa had testified that she pawned her wedding ring for $75 to satisfy Haine's demands, and denied that she had told a reporter for The Star that Sgt. Bowman had threatened her and her son in order to get their statements. 8-18-6-1

Fife declared: "Based on these letters sent to me and his attorney, and in connection with his mother's statements, it is evident someone is tampering with a probationer of this court. 8-18-6-2

Chief Brooklyn Probation Officer, Herbert A. Spitzer, Jr., said Fife signed the warrant Oct. 25, and it was forwarded to the Kings County Probation Department. 8-18-6-3

Yesterday Spitzer said he received word that Squillan had run away from home and could not be located. 8-18-6-4

Brooklyn probation authorities told Spitzer that Mrs. Dagrossa reported that she had received an anonymous phone call in which the caller said, "Bobby has a passport and he's going to Germany." S 18 6-5

Spitzer said they have been unable to determine if Squillan obtained a passport, but have notified Immigration authorities that a warrant is on file for Squillan. S 18 6-7

Squillan wrote to Erbecker on Sept. 5, and to Judge Fife on Sept. 10, and in both letters said Bowman had threatened and forced him and his mother to sign the statements against Sgt. Haine. S 18 6 8

On the basis of reading Erbecker's letter, The Star called Mrs. Dagrossa and her son. At that time they said the contents of the letter were true and that they would repudiate their statements and refuse to testify against Sgt. Haine. S 18 6-9

Squillan and his mother testified before the Marion County Grand Jury on Sept. 27, in regard to the Haine case. And Mrs. Dagrossa said her testimony in the Merit Board hearing was identical with what she gave the grand jury. S 18 6-10

Exhibit 9 (to Complaint Paragraph 9).

Complaint Exhibit 9 (Tr. 58-59; 2558; SR 48-49; SE 757) is a copy of two front-page articles and an article on page 11 published on November 4, 1965. One of the front-page articles carried a six-column headline, "Ex-Inmate Believes McAdams Threatened," and reads as follows:

Another former Marion County jail inmate yesterday told of vicious beatings of prisoners by deputies, including one incident when an inmate was attacked by several deputies and hurled down a staircase. 9-1-2-1

The former prisoner also said he once was a cellmate of Charles P. McAdams, and believed McAdams repudiated his statement that another inmate, Elmer

L. Regan, was beaten by a jail sergeant because McAdams had been threatened. 9-1-2-2

Reagan died of pneumonia brought on by the beating. It was McAdams' statement about Reagan's death that triggered a Marion County Grand Jury investigation of jail brutality and brought statements by a dozen other former inmates about jail beatings. 9-1-2-3

The new statement yesterday included names of 10 inmates and four deputies involved in beatings, and these were turned over to the jury. 9-1-2-4

The former prisoner said he did not want to be identified because he feared reprisals by deputies, but he signed a notarized statement and said he would testify willingly before the grand jury. 9-1-3-1

One of the beatings, he said, occurred in October, 1964, when inmates demonstrated about loss of television privileges. Some prisoners flooded the jail floor and burned two mattresses. 9-1-3-2

"This one sergeant came into the cellblock and grabbed me and slugged me," he said. "He said, 'My wife is sick and if she hears any of this and it kills her, I'll kill all of you.'" 9-1-3-3

The ex-inmate said the sergeant ran around as if crazed and grabbed another inmate, James P. Dearing, and began beating him. 9-1-3-4

"He beat Dearing all the way out of the cellblock and down the stairs and put him in the hole," he stated. 9-1-3-5

Dearing already has given The Indianapolis Star a statement about the beating, and has testified before the jury. 9-1-4-1

"I couldn't even count the times I've seen prisoners, drunks and juveniles mostly, beaten for no reason by deputies," the former inmate said. 9-1-5-1

He said he saw a mental patient known as "Bug Eyes" beaten severely by at least four deputies last May. 9-1-5-2

He said the mental patient "would just stand and stare. He didn't say or do anything to no one. A young deputy, a tall, blond headed kid, came into the cage and when he did he knocked Bug Eyes back and told him to get away from the door. 9-12-1-1

"Bug Eyes hit the deputy and knocked him clear out of the cellblock and when he did three deputies, one a sergeant, ran in. One deputy beat Bug Eyes until he couldn't swing anymore. When Bug Eyes stood up, the other two deputies began beating him. Then the sergeant and the deputy who had worked him over before, picked Bug Eyes up and carried him to the basement steps and threw him down the stairs." 9-12-1-2

He said that when prisoners were taken into the basement it meant they either would get a cold shower or a beating. The former prisoner said he learned the mental patient "had a bunch of ribs broken." 9-12-1-3

McAdams told of Reagan's beating to the grand jury. Then he was picked up by deputies, interrogated, and, according to the Sheriff Robert H. Fields, repudiated his original statement. 9-12-2-1

Reagan was beaten July 14 and died Aug. 7. 9-12-2-2

Although Fields said McAdams repudiated the statement, McAdams' girl friend, Mrs. Lura Kimbley of Danville, Ill., said McAdams had been given drinks of whiskey while he was being questioned and was given a bottle of whiskey by a deputy before he was released. 9-12-2-3

The former prisoner said yesterday he was well acquainted with McAdams and believed McAdams had been threatened. 9-12-2-4

He said McAdams has "a lot of guts. He's seen that beating happen and a lot more, and if he made up his mind to tell it he'd do it and he'd have to be plenty scared to ever back off." 9-12-2-5

The former prisoner, who was in the jail nearly 11 months awaiting trial on a vehicle taking charge said

he decided to tell what he knew on the advice of his attorney.

"I hate to see people who are down and out anyhow get mistreated by people who are supposed to have knowledge and character," he said. 9-12-2-6

The grand jury did not meet yesterday, but will resume its probe today. 9-12-1-7

The other front-page article in Complaint Exhibit 9 (Tr., p. 2558) carried a five-column headline, "Key Haine Case Witness Found In Rome," and reads as follows:

Robert Squillan, a key witness in the case against fired Marion County Sheriff's Sgt. Charles W. Haine, has been located at the American Consulate in Rome, Italy, it was learned yesterday. He disappeared last month. 9-1-4-3

Meanwhile, Haine appealed his dismissal in Marion Circuit Court and The Indianapolis Star received a startling letter from Squillan in which he explained why he fled to Europe, considered defecting to East Berlin, and described Haine—who was accused of extorting money from Squillan—as "still my friend and always will be." 9-1-5-4

Squillan, 23 years old, Brooklyn, N. Y., sought for violation of probation, was held after he appeared at the consulate seeking funds to enable him to return to the United States. 9-1-5-5

Judge Eugene M. Fife Jr. of Marion Criminal Court, Division 1, filed a warrant against Squillan on the probation charge on Oct. 25 after Haine was dismissed when the Sheriff's Merit Board found him guilty of taking bribes and converting a prisoner's money to his own use. 9-1-6-2

Herbert A. Spitzer Jr., chief county probation officer, said the Federal Bureau of Investigation will arrange for Squillan to be returned to the United States. The warrant will be filed with immigration authorities. 9-1-6-3

Fife ordered that either Spitzer or one of his aides return Squillan to Indianapolis once he is brought back to this country. Ordinarily this would be handled by a deputy sheriff, but Fife said he did not want anybody talking with Squillan until he is brought to court. 9-11-2-1

Squillan and his mother, Mrs. Florence Dagrossa, gave Haine money to obtain a suspended sentence on a robbery charge against Squillan last March, the sheriff's department charged. 9-11-2-2

Mrs. Dagrossa appeared at the hearing and stated the charges were true, but Squillan did not appear. His mother said he had fled home rather than testify against Haine. 9-11-2-3

In her testimony, she also said she pawned a wedding ring to get money to pay Haine, and she denied telling a reporter for The Indianapolis Star that a sheriff's sergeant had threatened her in order to get her to sign a statement against Haine. 9-11-2-4

However, Fife ordered the warrant for Squillan after Fife and Squillan's attorney, William C. Erbecker, received letters from Squillan in which he said the sheriff's sergeant, Felson Bowman, had threatened him and his mother to get the statements. 9-11-2-5

Erbecker got his letter Sept. 5 and Judge Fife received the other letter Sept. 10. 9-11-2-6

It was after this that Mrs. Dagrossa told The Star she had been coerced into giving the statement. However, she repudiated this at the merit board hearing. 9-11-2-7

Squillan and Mrs. Dagrossa testified before the Marion County Grand Jury Sept. 27. She said her jury testimony was identical to her merit board testimony. 9-11-2-8

In the Circuit Court appeal, filed by Erbecker, it was charged that the merit board "misinterpreted and misapplied" the law and violated Haine's constitutional rights in overruling three legal pleadings filed by Erbecker. 9-11-2-9

The appeal also listed as errors during the hearing "perjured" testimony of Mrs. Dagrossa and former convict Leon Johnson "which so tainted and permeated the entire proceedings, that the finding, decision and order and determination is contrary to law." 9-11-3-6

One of the charges against Haine was taking money from Johnson, but Haine said this was an attempt to discredit him. 9-11-3-7

Fife said he wanted Squillan, Bowman and all other persons concerned with the case to appear in his court. Based on the letters and Mrs. Dagrossa's testimony, Fife said, "it is evident someone is tampering with a probationer of this court." 9-11-3-8

The page 11 article in Complaint Exhibit 9 carried a three-column headline, "Giving Myself Up At Embassy In Rome, Says Squillan Letter," and reads as follows:

31 October, 1963
Rome, Italy

To: Mr. Rick Johnson
Indianapolis Star

Dear Sir: 9-11-1-2

This is just to let you know that I am giving myself up tomorrow at the American Embassy in Rome. I couldn't take the pressure that was being put on me about the affair involving Sgt. Haine. Because of the pressure and constant worry, I didn't report for work for several days and I lost my job. With no work my probation officer began hounding me. Perhaps I am a person of weak stature, but whatever the reason I left home. I sold everything I had and I even took an extra $200 from another party. I first went to Frankfurt where the plane landed. Then I proceeded on to Bonn where I began to seriously consider my fate. I had it in mind to go to East Berlin and defect from the United States. I just wanted to get away from it all. I was pondering my future and

all that hapepned to me in the past and I was so frustrated that I decided to tell the government just what they could do. 9-11-1-3

I took my Selective Service card from my wallet and burned it and also the 214 from the Army and mailed it along with a letter to the FBI in Washington, D. C. From Bonn I went to Berlin and could not get across to the East because of certain formalities. I was running out of money and so I bought a ticket to Rome and now just about all my money is gone and I am alone and very despondent. Mr. Johnson, because of my actions my family has been split up and everything is so messed up I don't know what is going to happen. 9-11-2-2

The whole affair was caused by the investigation of the Sheriff. I was doing fine on probation for six (6) months and then this had to happen. It caused so much strain on me with worry and all that I just couldn't keep on any longer. So I ran. I don't know what is going to happen to me. I have no future and nothing left any more. But I am going to surrender and see what happens. I will hope for the best in any event. My mother is waiting for welfare since my father walked out on her and Mr. Erbecker has a bill due for $1,096 due in March. I don't know what is going to happen. Tell the Sheriff, I hope he is satisfied. Perhaps he is interested in what his officers do but is he going to pay my mother's rent now and put food on her table? I left just to try and get a fresh start for myself and now I have lost everything I had. 9-11-3-1

I am sorry I disappointed Judge Fife but maybe I won't have to serve all the 10 years. I know I will have to serve a Federal sentence but I'll make the best of it.

Please give the enclosed card to Charlie Haine for me and tell him, no matter what, he is still my friend and always will be. Thank you for reading this. 9-11-3-2

Sincerely yours,

Robert Squillan

The message to Haine on an unstamped postcard read: 9-11-3-3

Rome, Italy
31 Oct. 1965.

Dear Charlie:

Mr. Johnson probably showed you my letter and by the time you get this I will be in custody. I have lost everything for sure now but such is life. Remember me fondly Charlie as I will remember you. You will always be my friend. If you ever get a chance, be sure to see Rome. 9-11-3-4

As always, your friend,

Bob Squillan 9-11-3-5

Exhibit 10 (to Complaint Paragraph 10).

Complaint Exhibit 10 (Tr. 60; 4217; SR 50; SE 536) is a copy of a front page article published on November 5, 1965, which carried a large 8 column headline, "Jury Calls 14 Prisoners", a two column sub-headline, "Picks Witnesses 'At Random' In Brutality Probe", and reads as follows:

The Marion County Grand Jury yesterday picked at random the names of 14 prisoners at the Marion County Jail to testify about alleged brutality at the jail. 10-1-7-1

Most of the inmates testified yesterday among a total of 20 more persons, also including Sheriff Robert H. Fields, who appeared before the jury. 10-1-7-2

The jury obtained a list of all inmates' names from Judge Saul I. Rabb of Criminal Court Division 2, and picked the 14 at random. 10-1-7-3

James E. Bath, deputy prosecutor in charge of the grand jury, said the jury will not be in session today but will reconvene Monday to hear additional jail probe witnesses and witnesses on regular grand jury business. 10-1-7-4

Last night, a former county jail inmate told The Star that another inmate died in the jail after being beaten and left suffering in a bare cell. The sheriff was then James O. Hiner, who died later that year. Fields was appointed to succeed Hiner. 10-1-8-2

The jury, investigating the beating death of Elmer L. Reagan and other alleged brutality at the jail, has heard testimony from 86 persons so far in the mushrooming probe. More than 100 persons are expected to testify before the jury concludes its probe of the beatings. 10-1-8-3

It also was learned yesterday that the grand jury may begin a probe of medical records of jail inmates who have been sent to Marion County General Hospital. It is also believed the grand jury will question each of the doctors who treat prisoners in the jail. The doctors who examine and treat jail inmates are resident physicians from Marion County General Hospital. 10-1-8-4

The ex-prisoner who reported the death of another inmate two years ago said he witnessed the beating and lack of medical attention in the role of a cell block boss. 10-1-8-5

The former inmate, Jack Louis Dearing, 31 years old, is serving a 10-year sentence at the Indiana State Reformatory at Pendleton for his part in the robbery of an Indianapolis liquor store. Dearing is presently awaiting action on a clemency petition. 10-1-8-6

Dearing said in "February or March" of 1963, an unidentified prisoner who evidently was suffering from delerium tremens was placed in "cell number 2" where he stayed for "four or five days" without jail food. 10-1-8-7

Dearing said the man kept saying continuously, "If you don't get me some help I'm going to die." 10-1-8-8

Dearing said the shift sergeant came back to check the man's condition several times. 10-1-8-9

"After he (the inmate) was in there three days, I tried to get the jail doctor to look at him because the

man was down on the floor and was apparently sick." 10-13-3-10

Dearing named a sheriff's sergeant who he said checked the man's condition and who told Dearing, "if he gets any worse let one of the deputies know." 10-13-3-1

Dearing who is a draftsman at the reformatory, said that on the forth day the man was in the cell he attempted to have him taken to the hospital. "He had been vomiting green and shaking as if in chills," Dearing said. 10-13-3-2

Again, Dearing said, the sergeant checked the cell and told him, "let one of the deputies know if he gets any worse." 10-13-3-3

"We all knew if the man didn't receive attention and soon, he wouldn't make it," Dearing said. 10-13-3-4

"It was about 8:30 or 9 p.m. on the fourth or fifth day that the man stopped moving at all," Dearing said. "I personally called the deputy, and he said 'I'll go get the sergeant.'" 10-13-3-5

When the sergeant attempted to rouse the man there was no response. Dearing said he and two other inmates carried the body to a table where a doctor from General Hospital pronounced him dead about 30 minutes later, Dearing said. 10-13-3-6

Dearing said the inmates later learned that the causes of the man's death had been listed as pneumonia. 10-13-3-7

"The man from the time they put him in there had begged for a doctor and for help," Dearing said. 10-13-3-8

Dearing also recalled the death of another inmate under similar circumstances. 10-13-3-9

Dearing said about six weeks after the first man's death a "Negro inmate with the d.t.'s" was placed in Cell 2. He was there two days and was returned to his section, but was returned a day later in "worse condition," Dearing said. 10-13-3-10

Dearing said after three or four days the man "became unconscious and was taken to the hospital." Later, Dearing said he was told by a deputy that "the man had died." 10-13-3-11

Dearing said he also witnessed two deputies "arguing" about which one would "fight a colored inmate." He named the deputy that "won" the argument and added that the deputy came out "second best" to the inmate and the inmate was placed in "the hole" for seven days. 10-13-4-1

Dearing's statement, given to The Star last night will be given to the grand jury today. 10-13-4-2

Dearing's Indianapolis police record includes three arrests and two convictions. The convictions were for disorderly conduct and armed robbery.

Dearing said he would be willing to testify before the county grand jury and that he also would be willing to submit to a lie detector test. 10-14-4-3

The probe was triggered last week when inmate Charles P. McAdams gave the Marion County Coroner's office a notarized statement in which he said he saw a deputy beat Reagan on two occasions July 14. 10-13-4-4

Reagan died Aug. 7 of pneumonia brought on by the beating and 12 broken ribs. McAdams repudiated his statement after he was questioned by sheriff's deputies before and after his grand jury testimony Oct. 26. 10-14-4-5

Sheriff Fields and deputy Jack Churchill gave testimony yesterday as did James Higgins, Lee Long, Charles Hembree, James Byers and Jimmy Green. Jail inmates who appeared were: Robert Beasley, Bobby Graves, William Sears, Joe Smith, Rollin Stapp, Samuel Gray, Alfred James, Jessie Stevens, Larry Thomas, Paul Ford, Downey Holloway and Denzil Neville, a prisoner of the Indiana State Penal Farm. 10-14-4-6

Bath said he hoped the grand jury would be able to make its report sometime next week. The report, which was to have been returned last Tuesday, was delayed by the grand jury probe into the jail. 10-14-4-7

Exhibit 11 (to Complaint Paragraph 11).

Complaint Exhibit 11 (Tr. 61; 5260; SR 51; SE 769) is a copy of a front-page article published on November 6, 1965, with a small 8-column headline, "Ex-Cellmate Backs Beating Report," a one-column sub-headline, "Supports McAdams' 1st Story," and reads as follows:

> A former Marion County Jail cellmate of Charles P. McAdams said yesterday that McAdams told him of witnessing the beating of Elmer L. Reagan by deputy sheriffs. 11-1-1-1
>
> George E. Thomas, 28 years old, 536 Woodlawn Avenue, now serving a 1-to-10-year sentence in the Indiana State Reformatory at Pendleton for vehicle taking, signed a notarized statement saying McAdams described the beating to him. 11-1-1-2
>
> Thomas was the second witness to come forward to corroborate the account which McAdams first gave in a notarized statement, then repudiated after he had been questioned by Sheriff Robert H. Fields' deputies. 11-1-1-3
>
> McAdams' girl friend, Miss Lura Kimbley, 52, Danville, Ill., also said that McAdams had told her of witnessing Reagan's beating. 11-1-1-4
>
> Reagan died of pneumonia brought on by 12 broken ribs in Marion County General Hospital Aug. 7. 11-1-1-5
>
> In another development yesterday, a 59-year-old Southside woman said she believes the prisoner mentioned in former jail inmate Jack L. Dearing's account of a prisoner dying from lack of medical attention in March, 1963, at the jail was her brother, Andrew J. Powell, 63. 11-1-1-6
>
> Dearing, who did not know the prisoner's name, said in a statement Thursday that the prisoner was beaten by deputies and thrown into a bare cell where he became ill and suffered delirium tremens. 11-1-1-7

Mrs. Pearl Roberts, 1552 Lexington Avenue said yesterday that her brother was arrested March 8, 1963, for drunkenness and received a five-day jail term. 11-1-1-8

"He had a bad cold when he was arrested," Mrs. Roberts said, "But he was a healthy man and a cabinetmaker by trade. We didn't even know he was sick until the jail captain came to see us about noon March 13 and told us Jack was dead. He told us Jack had been taking a shower and died." 11-1-1-9

Mrs. Roberts said she talked later with a former inmate who told her deputies had put Powell in the shower and had refused to give him treatment while he was in jail. 11-1-1-10

Thomas said that he was a cellmate of McAdams during September while awaiting completion of a presentence investigation on his conviction in Marion Criminal Court, Division 1, on a charge of vehicle taking. 11-1-1-12

"I have known McAdams for about 10 years," Thomas said, "and I talked to him in jail about it two or three times. He said he saw the beating; he said it was a rotten thing." 11-23-1-1

Another prisoner at Pendleton, who said he has been in and out of the Marion County Jail "quite a few times, off and on since 1959" said he was threatened by a sheriff's deputy who, he said, stole a pack of his cigarettes. 11-23-1-2

Fred R. Roberts, 22 years old, 1206 Fletcher Avenue, who is serving a 10-year sentence for robbery and a 1- to-10-year sentence for grand larceny, also said he saw a man suffering delirium tremens chained to a cell door and hit by deputies who also laughed at him. 11-23-1-3

Thomas said that when he went to the jail in September "there was quite a bit of talk about Reagan. It seemed that if the deputies found out that there was anyone talking about it he was promptly brought out of his cell and told to keep his mouth shut." 11-23-1-4

"The prisoners said deputies, one was a sergeant or lieutenant, had killed him (Reagan). They said the sergeant or lieutenant, I don't know his name but he is a big man, didn't approve of the beating but didn't make any effort to step in. I heard that four or five deputies were involved in the beating." Thomas said. 11-23-1-5

Thomas said that McAdams was called out by deputies after he had talked about Reagan's death. "When he came back, he was scared, shaking all over and white. 11-23-1-6

"Just before McAdams was released, he got a 'floor boy' job on the third shift and I believe they had him out there to keep him from saying anything more about Reagan's death. Those jobs usually go to drunks, or someone doing petty time, not to someone who is in for violation of the offenses against property act," Thomas said. 11-23-1-7

"I think McAdams was threatened or scared and that's why he changed his story." Thomas said. 11-23-1-8

The prisoner added that he was kicked and slapped a couple of times "but I was never really hurt." He said deputies had "no apparent reason" for the assaults. 11-23-1-9

Thomas also told of cruel treatment of sick, weak and young prisoners by deputies during 1962 when he was awaiting trial for four months on an accessory to vehicle taking charge. Thomas' notarized statement, along with Roberts', will be turned over to the Marion County Grand Jury. Both said they would appear before the jurors if requested. 11-23-1-10

Roberts said he was threatened in February, 1964. He said he returned from a meal and found his cigarettes gone. "I asked him (a deputy) if he shook the place down and he said 'yes' and I said 'Well, I've got some cigarettes missing.' I told him I didn't get very much money and that I'd like to have them back. He threatened to take me out and whip me. 11-23-1-11

"I was threatened a few times but I never was beaten. I guess I just shut up, you know," Roberts said.

Speaking of another incident, Roberts said, "About three years ago there was this guy named Joe who had the D. T.'s. They (the deputies) handcuffed him to the bars in front of B. R. (a cell) like a dog and they hit him and then they'd laugh. They brought him his food there on the floor. He was chained there three or four days." 11-23-1-12

The grand jury was not in session yesterday, but it was learned that several witnesses have been subpenaed to testify next week regarding conditions in the jail. 11-23-1-13

One attorney yesterday took legal exception to the prolonged probe the grand jury is making into jail conditions. Ferdinand Samper filed a petition for a court order with the Criminal Court judges "requesting the judges to order the Grand jury to report. 11-23-1-14

Samper, who represents two clients charged with rape, whose cases are being considered by the grand jury, charged that an unreasonable length of time has elapsed since the charge of rape was presented to the court for grand jury action. 11-23-1-15

Exhibit 12 (to Complaint Paragraph 12).

Complaint Exhibit 12 (Tr. 62-63; 3569; SR 52-53; SE 785) is a copy of two articles published on the first page of the second or editorial section on Sunday, November 7, 1965. One of these articles carried a two-column headline, "Jury To Report On Jail Cruelty Charges Friday," and reads as follows:

An investigation growing out of a Marion County Jail prisoner's death has elicited a vast, detailed picture of alleged jail cruelty as victims and witnesses unexpectedly volunteered dovetailing pieces of testimony. 12-2-1-1

Friday, the County Grand Jury is expected to report on its findings. 12-2-1-2

The investigation, made dramatic by the testimony that poured in from all sides, inadvertently had the timing of a stage production. New charges were added day by day. 12-2-1-3

As the startling charges grew, the two Criminal Court judges and the grand jury itself promised full protection to the fear-filled witnesses who appeared. 12-2-1-4

But the pitiful—and portentous—death Aug. 7 of the jail inmate, Elmer L. Reagan, 50 years old, was unreported until The Indianapolis Star learned of it five days later. Cause of his death was pneumonia, brought on by the smashing of his ribs. 12-2-1-5

A mental patient chained in the same cell which Reagan had occupied was charged with second-degree murder in the beating which supposedly led to the victim's death. 12-2-1-6

The grand jury was given the case against the mental patient, William A. Brown. 12-2-1-7

And that was that.

But on Oct. 25, Charles P. McAdams, 35, a barber in jail on a charge of stealing barbering shears at the time Reagan was jailed, charged in a notarized statement that Reagan actually was attacked July 14 by an angry deputy sheriff. 12-2-1-8

After McAdams' charge was brought to light by The Star, the jury's investigation into Reagan's death suddenly broadened. 12-2-1-9

McAdams testified Oct. 26 before the grand jury. Sheriff's deputies took him in custody twice that day—before and after his jury appearance. He reported that deputies sought a statment from him and he refused to give it. 12-2-1-10

Then he disappeared.

The following day, Sheriff Robert H. Fields, under whose jurisdiction the jail is run, declared the missing man had repudiated his statement. 12-2-1-11

But a day later, on Oct. 28, the girl friend of McAdams declared that McAdams, who had told her of Reagan's beating, was "brainwashed" by the deputies who gave him whisky. 12-2-1-12

"He sold out," declared Mrs. Lura Kimbley, 52, Danville, Ill. "He sold out," she repeated. 12-2-1-13

Later, she told Judge Eugene M. Fife Jr. of Criminal Court, Division 1, that she was sure McAdams told the truth in his original statement. A parolee also came forward to say he heard McAdams discussing the death in the jail. 12-2-1-14

Meanwhile, on Oct. 27 began the surprising link-by-link chain of volunteer testimony. 12-2-1-15

On that day, Arthur L. Derringer, 46, truck driver who resides at 115 East 21st Street, declared that "five or six" deputies kicked and beat him last January in the basement of the old jail where Reagan allegedly was beaten before he died. 12-2-2-1

Several days later a prisoner at the Indiana State Reformatory signed a statement relating that he had been beaten severely by a deputy sheriff in the county jail. Three other reformatory prisoners reported they saw the beating. 12-2-2-2

And one of the four said he witnessed the attack on Derringer. 12-2-2-3

The public revelations that followed included: 12-2-2-4

An Indiana State Penal Farm prisoner declared he saw two jailed men beaten by the deputies. 12-2-2-5

A former inmate volunteered information about prisoner mistreatment—including the poking with a stick of a naked man forced to sit on a soggy mattress. 12-2-2-6

Another former prisoner declared a deputy hit him in the stomach, broke his nose and then the prisoner was thrown in the "hole" for three days without food. 12-2-2-7

Another man reported he was beaten by two deputies came to at the bottom of the jail stairs as a deputy kicked him and was beaten again. 12-2-2-8

A 35-year-old Indianapolis man declared he saw a prisoner beaten by deputies. He added that the deputies never intervened when inmates—usually juveniles—were beaten by other prisoners. He said he never saw Americans treated worse in the Chinese prisoner of war camp where he spent three years during the Korean war. 12-2-2-9

A former deputy sheriff scored the jail conditions as "almost medieval," saying that prisoners (mostly drunks) frequently were knocked about and beaten. 12-2-2-10

Ten inmates and four deputies involved in beatings were named by another former prisoner. 12-2-2-11

Steeped in testimony, the grand jury Thursday picked at random the names of 14 prisoners now in jail and called upon them to testify. The same day the death of a prisoner, beaten and left in a bare cell during the regime of the late Sheriff James O. Hiner, was revealed. 12-2-2-12

As the probe proceeded, two deputies were suspended, one for a tear-gas-throwing episode described in McAdams' "repudiated" statement; the other for failure to give his superiors additional information about Reagan's death. 12-2-2-13

An estimated 150 persons will have give their secret testimony before the burgeoning investigation ends, probably by the week's close according to James E. Bath, deputy prosecutor. 12-2-2-14

Friday, a former cellmate of McAdams added farther corroboration to McAdams' original statement. He said McAdams told him of witnessing the beating of Reagan. 12-2-2-15

The second article in Complaint Exhibit 12 carried a six-column headline, "Puzzle For Grand Jury Probing

Jail Brutality, Can Shackled Patient Beat A Man?," and reads as follows:

Comparison of a Marion County Sheriff's Department report on the death of a jail inmate and hospital records has posed a puzzle for the grand jury probing brutality at the jail. 12-2-3-1

Spotlighted is one big question: How could a mental patient, shacked to bars, inflict mortal injuries on another prisoner? 12-2-3-2

Elmer L. Reagan died Aug. 7 of pneumonia induced by a severe beating; after being admitted to Marion County General Hospital July 14. 12-2-3-3

The mental patient, William A. Brown, was charged with second-degree murder. 12-2-3-4

Brown was admitted to Marion County General Hospital on Aug. 2 and records there show conclusively that his arms and legs bore distinct marks of shackles and handcuffs, according to investigators. It was evident he had been in constant restraint for some time, they said. 12-2-3-4

Questioned by doctors, Brown said another man had been put in the cell with him, but Brown declared he had not fought with the man. Brown declared that he heard the man died of malnutrition. 12-2-3-5

Though almost incoherent, Brown at no time was described by attending physicians and nurses as violent or dangerous. 12-2-3-6

He was classified in the records as noisy, belligerent and restless. He talked as if he were dangerous, but never carried out his threats, the reports noted. 12-2-3-7

His most violent actions on record were one episode where he stuffed a toilet bowl with towels and another when he allegedly cursed and made indecent gestures at the wife of a deputy on duty in the hospital detention ward. The deputy struck Brown. 12-2-3-8

While hospital records show Brown regularly is administered tranquilizers, no records are available on drugs given him at the jail. 12-2-4-1

Reagan's final admission to the hospital followed a series of trips there for treatment of open sores on his legs. 12-2-5-1

The hospital's records show that as late as July 8, Reagan's ribs were intact. 12-2-5-2

When brought in July 14, Reagan, a known alcoholic, complained of a cough, a sore hip, and said he ached all over. His chest and abdomen were covered with bruises and open sores. 12-2-7-1

Doctors said Reagan, who was in a semi-coma, could tell them little. 12-2-7-2

Examination disclosed he suffered from 15 broken rib, multiple bruises and a dislocated hip. He was in the early stages of pneumonia. 12-2-7-3

The medical report also notes that Reagan's body was developing pressure sores, caused by lying flat for long periods of time, and indicating he had been very inactive. 12-2-7-4

On July 15, a doctor asked Deputy Jack Churchill how Reagan suffered the 15 broken ribs. The deputy replied that he could not say. 12-2-7-5

The same day, two different doctors examined Reagan and each put down different versions of how Reagan was injured—neither noting the source of his information. 12-2-7-6

One physician reported that Reagan had been beaten by a mental patient. The other noted that Reagan had been in an automobile accident the week before. 12-2-7-7

However, Reagan was arrested June 27 and in custody continuously after that time. 12-2-7-8

There is nothing in the records indicating Reagan ever named his attacker, gave any version of how he was injured or even said he was beaten. 12-2-7-9

In the delayed report made by the sheriff's office and filed with the Marion County Coroner's office, a jail sergeant said that at 6:45 a.m. July 14 he received word Brown had kicked Reagan. 12-2-7-10

Sgt. Robert Smith's report relates he and two deputies, Robert Kirkman and James Burris, went to the "cage" in the jail basement where Reagan told Smith that Brown had kicked him several times. 12-2-7-11

Reagan did not complain of any pain and there were "no apparent fresh wounds," Smith's report said. It added that Brown was restrained "so that he could no longer get to anyone else." 12-2-7-12

When Reagan's beating-induced death was bared Aug. 12 by The Indianapolis Star, no sheriff's reports existed on his beating, his hospitalization or who was suspected in the beating. No investigation was in progress. 12-2-8-1

Brown was not charged until after the story was made public—at which time Sheriff's deputies announced they had found four eye witnesses who gave them evidence. 12-2-8-2

No reports had been made, sheriff's officials explained, because the controversial Sgt. Charles W. Haine, fired by the department on a number of charges including bribery, had been assigned the case. Haine failed to follow up on the investigation, officials said. 12-2-8-3

Among the questions that are unanswered is the one of why a "violent" mental patient was placed in the cell with a man charged with drunkenness. 12-2-8-4

Another is where the supplementary reports were from which Haine was supposed to conduct his investigation. 12-2-8-5

Former inmate Charles P. McAdams, in a notarized statement for the coroner's office, said a deputy sheriff, not a mental patient, beat Reagan after an argument over medicine. (Hospital records show Reagan was given medicine to be administered by the deputies.) 12-2-8-6

McAdams, who later repudiated his story after questioning by deputies, originally maintained, that Reagan was first struck at 6 p.m. July 14. 12-2-8-7

Records show Reagan was taken to the hospital at 5:09 p.m. July 14. Did McAdams tell the truth, but make a mistake about the time or day?

Or did he make up the story? 12-2-8-8

At least three persons, including his girl friend, said McAdams told them he saw a deputy beat a man to death." 12-2-8-9

And dozens of persons are testifying before the grand jury regarding other beatings and brutality they say they have suffered or seen in the jail. 12-2-8-10.

Exhibit 13 (to Complaint Paragraph 13).

Complaint Exhibit 13 (Tr. 64; 5262; SR 54; SE 793) is a copy of an article published on page 21 on November 8, 1965, with a one-column headline, "10 To Testify In Probe Of Jail Today," and reads as follows:

Prisoners from the Marion County Jail and doctors from Marion County General Hospital are among more than 10 witnesses slated to appear before the County Grand Jury today in its continuing investigation of alleged brutality in the jail. 13-21-4-1

Meanwhile, Prosecutor Noble R. Pearcy said he has called a meeting of his top deputies to discuss the progress of the investigation. Pearcy would not comment on the probe, but said, "I'll have more to say tomorrow." 13-21-4-2

James E. Bath, deputy prosecutor assigned to the grand jury, expressed hope that the investigation would be concluded this week, with the grand jury possibly reporting Friday. 13-21-4-3

However, Bath said he did not know whether today's witnesses will wrap up the investigation. 13-21-4-4

Today will begin the seventh week of continuous

session for the five women and one man on the grand jury. 13-21-4-5

So far the grand jury has heard 86 witnesses in the probe of alleged brutality which began when a former prisoner in the jail, Charles P. McAdams, 35 years old, gave The Star a notorized statement that he saw Sheriff's deputies beat Elmer L. Reagan, 50, on July 14. 13-21-4-6

Reagan died Aug. 7 of pneumonia brought on by injuries received in a beating.

McAdams later repudiated the statement after he was questioned twice by Sheriff's deputies, once before and once after his grand jury appearance. 13-21-4-7

Two persons have signed statements saying that McAdams told them he saw deputies beat Reagan. 13-21-4-8

Neither Pearcy nor Bath would say what their feelings are on the progress of the investigation. Pearcy, who also said he wants a grand jury report this week, said he will confer today with Bath, Leroy K. New, Frank Spencer and John Davis. 13-21-4-9

Bath said he could not identify which prisoners and physicians would be called today. 13-21-4-10

However, it is believed the doctors will be asked about Reagan's death and about William A. Brown, the mental patient who, deputies say, beat Reagan in the jail. Brown already has testified before the grand jury. 13-21-4-11

Exhibit 14 (to Complaint Paragraph 14).

Complaint Exhibit 14 (Tr. 65; 4249; SR 55; SE 723) is a copy of two front page articles published on November 9, 1965. One carried a two column headline, "Sheriff's Department Defended By Fields", and reads as follows:

Sheriff Robert H. Fields called a press conference yesterday and said—"the sheriff's department is not evil and depraved, as The Indianapolis Star has charged." 14-1-1-15

Charging that The Star has been critical of him for nearly a year, Sheriff Fields said: 14-1-1-16

"It (The Star) knowingly schemed to procure false evidence to support its charges which it has been publishing and rehashing these past 13 days." 14-1-1-17

The "false evidence" was a statement signed and notarized before the chief investigator for the coroner's office by a prisoner in the Marion County Jail. In the statement, the prisoner, Charles P. McAdams, said he saw sheriff's deputies beat 50-year-old Elmer Reagan on July 14. Reagan later died of pneumonia brought on by the smashing of his ribs. 14-1-1-18

McAdams repudiated the statement after he was questioned by Fields and deputy sheriffs both before and after he appeared before the Marion County Grand Jury to testify in the case. 14-1-2-1

Since McAdams repudiated his statement, four persons have said that they heard McAdams describe the beating of Reagan. 14-1-2-2

Fields said he was reluctant to discuss publicly possible litigation against The Star. 14-1-2-3

The second article in Complaint Exhibit 14 carried a small 8 column headline, "4th Person Told Of Beating Incident", and a one column sub-headline, "McAdams Quoted By Ex-Inmate", and reads as follows:

A fourth person said yesterday in a signed statement that Charles P. McAdams told him he witnessed the beating of Marion County Jail inmate Elmer L. Reagan shortly before Reagan's death. 14-1-1-1

Meanwhile, there were these other developments in the investigation by the Marion County Grand Jury of alleged jail brutality: 14-1-1-2

1. A former jail inmate who made yesterday's statement, Forrest Hester, 19 years old, also charged he was beaten by a jail sergeant and a deputy last July. 14-1-1-3

2. Another former inmate Danny Paul Ritzert, 18 said he witnessed the beating of Hester. 14-1-1-4

3. The grand jury heard testimony from 13 persons, including three doctors. 14-1-1-5

Hester, serving a one-year term at the Indiana State Reformatory for entering to cominit a felony, charged he was beaten in "the hole" at the jail last July after being called from his cell block by a sergeant and accused of fighting. 14-1-1-6

A signed statement by McAdams, 35, in which he charged he saw sheriff's deputies beat Reagan, 50, on July 14, triggered the grand jury probe. McAdams later repudiated the statement after he was questioned by sheriff's deputies before and after his grand jury appearance. 14-1-1-7

Hester said that he believed McAdams "changed his mind at the jail. They made him some kind of a deal . . . When he was talking to me I believed the guy and I still do." 14-1-1-8

Reagan died Aug. 7 of pneumonia brought on by the beating injuries. 14-1-1-9

Three other persons have made statements saying that McAdams told them he saw deputies beat Reagan. 14-1-1-10

In the other beating incident, Hester said he tried to explain that the matter already had been settled by another sergeant, but the sergeant said "he was going to put me in the hole anyhow." 14-1-1-11

The "hole" is a solitary confinement type cell with no bed or toilet facilities. 14-1-1-12

Hester said he demanded to see the jail captain before being placed in the hole and was told to "get back there in the hole . . ." and was "thrown up against the bars." 14-1-1-13

Hester said after a struggle he went back to the hole. He said he started beating on the door "hollering to see the captain" and was told to stop or he would not "get any food." 14-12-1-1

Hester said that as the deputies were leaving he yelled an obscenity at them and they returned. The sergeant entered the cell and, Hester said, "I ducked

the first punch and then he hit me in the stomach." 14-12-1-2

A fight followed during which Hester threw the sergeant "in the corner," Hester said. Hester said he struck the sergeant and had him "down on the floor" when another deputy entered the cell and began kicking "me in the back a couple of times." 14-12-1-3

Hester said he was "hit three or four times in my side." 14-12-1-3

Ritzert, serving a 1-to-10-year term for robbery, said in a signed statement that he witnessed part of the incident. 14-12-2-1

Hester and Ritzert both said they would be willing to take lie detector tests and give their information to the grand jury if called. 14-12-2-2

Hester also charged that he had seen "men chained up downstairs" at the jail. "One's wrists was bleeding because the cuffs were too tight." Hester also alleged that mental patients were "pushed around" at the jail. 14-12-2-3

Ritzert, besides substantiating Hester's statement, also stated he saw James H. Green beaten by a sheriff's sergeant and three other deputies. 14-12-2-4

Green already has testified before the grand jury concerning an alleged beating he said he suffered in the jail. 14-12-2-5

Ritzert also said he witnessed an incident in which a soldier was "smacked in the face a few times," stripped of his clothing and placed in "the hole." 14-12-2-5A

Ritzert said a jail sergeant later shot a tear gas gun into the hole. "And all the guy wanted was his medicine," Ritzert stated. 14-12-2-7

Hester concluded his statement by saying that, "It's just a few of the deputies that done this. It's not the whole sheriff's department. There was some that was awful nice, I thought, and they treated you like a man." 14-12-2-8

The 13 persons who testified before the jury yesterday brought the total to testify in the probe to 99. 14-12-2-9

The doctors who testified were Dr. Arvine G. Popplewell, superintendent of Marion County General Hospital; Dr. Arthur P. Kebel, physician for Federal prisoners at the county jail, and Dr. William Shuck, a resident physician at General Hospital who treats county prisoners. 14-12-3-1

Other witnesses, besides eight penal inmates who testified, were former Deputy Sheriff Richard A. Weisfeld, 1809 Minturn Lane, and James Pedigo, 940 Woodlawn Street, bartender at a Southside tavern. 14-12-3-2

The prisoners who appeared were Harold Kaufman, from the Federal Penitentiary at Terre Haute; Fred Roberts, Jack Louis Dearing, Homer Shaw and George Thomas, all from the Indiana State Reformatory at Pendleton, and Bobby W. Scott, George W. Waldridge and John E. Fitzgerald, all from the Indiana State Prison at Michigan City. 14-12-3-4

James E. Bath, deputy prosecutor in charge of the grand jury, said more witnesses would appear today. 14-12-3-5

Also called to testify yesterday was another Federal prisoner, John Martin Young, but he refused to testify after conferring with an attorney. His regular attorney is out of the city. 14-12-3-6

Bath said the jury may not be able to report on the jail Friday, as planned, if sufficient new witnesses are produced to prolong the investigation. 14-12-3-7

The grand jury will issue its regular report Friday even if findings in the jail probe are not ready, he said. 14-12-3-8

Hester's police record shows he has had eight arrests and three convictions. His convictions include entering to commit a felony, third degree burglary and vagrancy. 14-12-3-9

Ritzert has served terms in the Indiana Boys School at Plainfield and at the Gibault Home. His only adult conviction was for robbery and resulted in his present prison term. 14-12-3-10

Exhibit 15 (to Complaint Paragraph 15).

Complaint Exhibit 15 (Tr. 66-67; 5460; SR 56-57; SE 796) is a copy of two articles published on November 10, 1965, one of which appeared on the front page, and the other on page 17. The front page article carried a small 8-column headline, "Injuries Revealed In 2d Jail Death," a two-column sub-headline, "Two Broken Ribs of Pneumonia Victim Reported," and reads as follows:

A Marion County Jail inmate who died of pneumonia in Marion County General Hospital last July suffered two fractured ribs and had been left alone in a cell with a mental patient although he was ill, it was learned yesterday. 15-1-1-1

Dr. Robert C. Collins, county coroner, said he intends "to have another look at the case" of the victim, Dane Crick, based on a signed sheriff's report that Crick lay ill and nude on the floor of his cell for at least two days. 15-1-1-2

The mental patient was William A. Brown, the same inmate accused by sheriff's deputies of the fatal beating of another inmate, Elmer L. Reagan, whose death triggered a widespread investigation of jail brutality by the Marian County Grand Jury. 15-1-1-3

Brown admitted in a statement that he "rested my knee on his (Crick's) stomach." 15-1-2-3

Crick, 62 years old, a retaired painting contractor, died at 1:30 a.m. July 14 about seven hours after he was taken unconscious to General Hospital from his "basement cage" at the jail where he was being held on a drunkenness charge. 15-1-2-4

His daughter, Mrs. Lula M. Wieland, 721 Memorial Drive, Beech Grove, a registered nurse, charged yes-

terday that "at least neglect" was involved in her father's death. 15-1-2-5

Coroner's records listed cause of death as acute bacterial pneumonia but showed that Crick had suffered two fractured ribs. 15-1-2-6

At the time of Crick's death, Brown said in a statement to sheriff's deputies: "Yesterday and the day before he (Crick) would lay there and would not eat. White stuff would come out of his mouth." 15-1-2-7

Brown, 26, was charged with second-degree murder in Reagan's death. 15-1-2-8

Brown said Crick "was crazy. He was a mad man. He wouldn't keep his clothes on." 15-1-2-9

Although Brown said in the statement that Crick was sick in the cell for two days, sheriff's investigators did not explain why Crick had not been taken to the hospital earlier. 15-10-2-1

Records show Crick was found ill by deputies about 6 p.m. July 13. 15-10-2-2

Mrs. Wieland said when she went to the jail to collect her father's belongings a deputy told her that Crick had "suddenly gone into d.t.'s (delirium tremens)". 15-10-2-3

She said he was willing to testify before the grand jury about Crick's "mysterious" death. 15-10-2-4

"I'm a nurse and I know a man doesn't get pneumonia and die in a few hours." 15-10-2-5

One of the sheriff's reports on Crick's death was made by Sgt. Donovan King, who has been suspended by Fields for allegedly firing a tear gas shell into a cell. 15-10-2-6

King's report stated: "It was advised that this man had been having illusions and had been through d.t.'s, he had not had any clothes on him for two days, each time they were put on him he took them off and lay nude on the floor."

Crick had been in jail since July 7. 15-10-2-7

At the time of Crick's death, former Sheriff's Sgt. Charles W. Haine interviewed and took a statement from Brown. 15-10-2-8

Haine said recently that sometime in July he interviewed Brown in connection with the death of a prisoner, whose name he did not recall, and did not believe that Brown was violent. 15-10-3-1

Haine said Brown told him that the prisoner began having delirium tremens and became violent, so Brown put his knee on the man's stomach and pinned his arms with just enough pressure to hold him still. 15-10-3-2

Haine also said Brown denied that he ever struck the prisoner. 15-10-3-3

Reagan was beaten July 14 and died Aug. 7. The murder charge against Brown was filed after The Indianapolis Star learned of Reagan's death. 15-10-3-4

The Grand Jury probe of jail brutality started Oct. 27 after another inmate, Charles P. McAdams, signed a statement charging that Reagan had been beaten by a deputy. Reagan died of pneumonia brought on by beating injuries. 15-10-3-5

McAdams later repudiated the statement after he was interrogated by Fields and his deputies, but since then four persons have stated that McAdams had told them about Reagan being beaten by a deputy. 15-10-3-6

More than a dozen inmates and former inmates have told of other jail beatings since the probe started. 15-10-3-7

Seven more persons testified in the grand jury investigation yesterday, including Sheriff Robert H. Fields and Dr. Collins. Fields has made several appearances before the jury since the probe began. 15-10-3-8

Others who testified yesterday were Sheriff's Sgts. Richard Warrum and James Mellege; Deputy Carl Rankin; Gene Coykendall, a prisoner at the jail, and

Exhibit 16 (to Complaint Paragraph 16).

Complaint Exhibit 16 (Tr. 68; 5265; SR 58; SE 803) is a copy of two front page articles published on November 11, 1965. One of carried a large 8-column headline, "Jury To Get Crick Evidence", a two column sub-headline, "2d Of Jail Deaths Brings Possible Negligence Probe", and reads as follows;

> Evidence in the death of a retired painting contractor will be submitted to the Marion County Grand Jury for consideration of "possible negligence." 16-1-7-1
>
> Dr. Robert C. Collins, Marion County coroner, said yesterday he would turn over to the jury the evidence in the case of Daner Crick, 62 years old, old, who died of pneumonia in Marion County General Hospital last July after being taken there from the Marion County Jail. 16-1-8-2
>
> The grand jury paid a surprise visit to the jail yesterday and was given a tour of the new building by Sheriff Robert H. Fields. 16-1-8-3
>
> Meanwhile, there were these other developments in the jury's investigation of the alleged brutality in the jail. 16-1-8-4
>
> 1. A former inmate at the jail will be shown photographs of Crick to determine if Crick was "an old man going into the d. t.'s" (delirium tremens) that the inmate said he saw "pushed" against the wall of the basement cage in the jail and fall into unconsciousness in July. 16-1-8-5
>
> 2. Two other former jail inmates testified yesterday before the grand jury. 16-1-8-6
>
> 3. The jury now is scheduled to report at 2 p.m. Monday. It has not been announced if the report will include findings in the jail probe. 16-1-8-7
>
> 4. The founder and president of a national organization for the rehabilitation of alcoholics charged yesterday that "jail is no place for an alcoholic . . ."

and that the best action for persons suffering from delirium tremens is to "immediately get them to a hospital for treatment." 16-1-8-8

Mr. Collins said yesterday he has assigned his chief investigator, Betnel Gaither, to obtain additional evidence in Crick's death. 16-1-8-9

Dr. Collins said he will talk to former jail inmate Denzil Loren Neville, Jr., 22, who is now an inmate at the Indiana State Farm at Putnamville, for information in the Crick investigation. 16-1-8-10

Neville, in a notarized statement to The Star, stated he had seen an "old man" in the basement cage last July who was pushed against a wall by a deputy and fell unconscious. 16-1-8-11

Crick was discovered unconscious in the basement cage about 6 p.m., July 14. He was found in an autopsy to have suffered two fractured ribs. 16-1-8-12

Neville will be shown photographs of Crick in an attempt to identify him as "the old man," Dr. Collins said. 16-1-8-13

Dr. Collins said, although the death has been ruled due to natural causes there probably still is a question of negligence." He added, "according to the sheriff's statements in the case the man apparently was sick for two or three days before he was sent in. This, of course, makes you wonder. If he wasn't fed or anything, it could have been a contributing factor in the death." 16-10-2-1

Reports by sheriff's investigators of the July 14 death of the painting contractor stated he had been "having illusions and had been through d. t.'s" and "he had not had any clothes on him for two days" prior to his death. 16-10-2-2

The sheriff's report also stated Crick had been placed in the "basement cage" with a former mental patient because Crick had "caused a disturbance on the main floor during visiting." 16-10-2-3

Crick's daughter, Mrs. Lula M. Wieland of Beech Grove, said yesterday her father was an "extremely

quiet" man. Mrs. Wieland, a registered nurse, said "If dad did cause a disturbance it was because he was sick." Mrs. Wieland added, "Dad was very polite. I find the sheriff's report of dad's actions 'out of place' with the man I knew as my father." 16-10-2-4

A man who has "sobered up maybe 5,000 persons, six of them in d. t.'s" said yesterday, "alcoholism is a disease and it is unjust to jail a diseased person." 16-10-2-5

Arthur D. Pratt Jr., founder and national president of the Flynn Christian Fellowship House, said delirium tremens is a form of starvation. "It's a very dangerous state and the best immediate treatment for it is to get a drink into the person . . . and also immediately to get them to the hospital and treat them with glucose and sedatives." 16-10-3-1

Pratt emphasized the importance of getting the person to the hospital "immediately."

Former inmates of the jail have told The Star persons suffering from d. t.'s are "usually placed in the basement cage." 16-10-3-2

The grand jury yesterday appeared unannounced at the jail and toured the building before hearing testimony from two inmates at the Indiana State Reformatory at Pendleton. 16-10-3-3

The inmates, Forrest Hester, 19, and Danny Ritzert, 18, had given signed statements to The Indianapolis Star concerning an alleged beating Hester said he suffered at the jail. 16-10-3-4

The grand jury will not meet today. 16-10-3-5

The second article in Complaint Exhibit 16 carried a one column headline, "FBI Arrests Squillan In LBJ Threat", and reads as follows:

Robert F. Squillan, a key witness in the case against fired Marion County Sheriff's Sgt. Charles W. Haine, was arrested yesterday for allegedly threatening the life of President Lyndon B. Johnson in a letter. 16-1-7-2

The FBI said Squillan, a 23-year-old resident of Brooklyn, N. Y., was taken into custody about 6 p.m. at Kennedy International Airport in New York as he returned from Rome, Italy. 16-1-7-3

Squillan was held under $25,000 bond in the Federal House of Detention in New York. 16-1-7-4

John F. Malone, assistant director of the FBI in charge of the New York office, said Squillan had sent a letter from Rome to the FBI which "contained a threat to injure the person of Lyndon Baines Johnson, President of the United States." 16-1-7-5

The FBI said Squillan was identified as the writer of the letter through handwriting analysis. 16-1-7-6

Contents of the letter were not disclosed. 16-1-7-7

The FBI said Squillan faces trial in the Federal Court for the Eastern District of New York and that the Federal charge will take precedence over parole violation charges pending against Squillan from Marion Criminal Court, Division 1. 16-1-7-8

Judge Eugene M. Fife of the Marion County court filed a warrant against Squillan on the probation charge Oct. 25. 16-1-7-9

Squillan disappeared from his Brooklyn home in late October before he could be picked up on the probation violation charge. 16-1-7-10

He turned up at the American Consulate in Rome Nov. 3 and the same night The Indianapolis Star received a startling letter from Squillan in which he said: 16-10-1-1

"I was pondering my future and all that happened to me in the past and I was so frustrated that I decided to tell the government just what they could do. 16-10-1-2

"I took my Selective Service card from my wallet and burned it and also the 214 from the Army and mailed it along with a letter to the FBI in Washington, D. C." 16-10-1-3

Squillan and his mother, Mrs. Florence Dagrossa,

gave Sgt. Haine money to obtain a suspended sentence on a robbery charge against Squillan last March, the sheriff's department charged. Mrs. Dagrossa appeared at a Sheriff's Merit Board hearing in which Haine was found guilty and she stated the charges were true, but Squillan did not appear. His mother said he had fled home rather than testify against Haine. 16-10-1-4

Squillan and Mrs. Dagrossa testified before the Marion County Grand Jury Sept. 27. She said her jury testimony was identical to her merit board testimony. 46-10-1-5

Judge Fife and Squillan's Attorney, William E. Erbecker, both had received letters from Squillan in which he said a sheriff's investigator had threatened himself and his mother to get statements against Haine. 16-10-1-6

Mrs. Dagrossa then confirmed to The Star that she had been coerced into giving the statement. She repudiated this, however, at the Merit Board hearing. 16-10-1-7

Exhibit 17 (to Complaint Paragraph 17):

Complaint Exhibit 17 (Tr. 69-70; 5266; SR 59-60; SE 808) is a copy of three articles, one on the front page and two on page 17, published on November 12, 1965. The front page article carried a five column headline, "Prisoner Identifies Crick Photo", and reads as follows:

A 22-year-old inmate at the Indiana State Penal Farm at Putnamville yesterday identified a photograph of Daner Crick as the man he saw fall unconscious last July in the Marion County Jail after being pushed against a wall by a deputy. 17-1-2-1

The farm inmate, Denzil Loren Neville Jr., said he saw the 62-year-old retired painting contractor lie "naked . . . dirty . . ." and "sick" on the cement floor of a basement cage in the jail last July. 17-1-2-2

Crick died July 14 in Marion County General Hospital of acute bacterial pneumonia and the death at that time was ruled due to natural causes, but it was learned Tuesday by The Star that Crick had lain ill in a basement cage with a mental patient for at least two days before his death. 17-1-3-2

Neville, serving a one-year term under the minor statute for first degree burglary, said he was placed in the cage with Crick and others for about three hours. 17-1-3-3

Neville selected Crick's photograph from among 10 Indianapolis Police Department "mug shots" yesterday in the presence of five State Farm security guards, including Maj. Robert Garrison and Capts. Charles A. Thompson and James Lyon. Crick's photograph had not previously appeared in newspapers. 17-1-3-4

Dr. Robert C. Collins, Marion County coroner, said he will present evidence in the Crick case, including Neville's statement, to the grand jury today for consideration of possible negligence. 17-1-3-5

Dr. Collins said he believes that reports that Crick lay sick, hungry and nude for two or three days in the jail warrant an investigation of possible negligence. 17-1-4-1

Neville had given a signed statement to The Star Nov. 1 about an alleged beating he said he suffered in the jail. 17-1-4-2

In that statement he included an account in which he said he saw an "old man . . . going into d.t.'s" who, he said, was shoved against a wall by a deputy when the old man tried to get out of the cage. 17-1-5-1

Noting the similarities in the incident mentioned Nov. 1 by Neville and the details of Crick's death which were bared by The Star Wednesday, another statement was obtained yesterday. 17-1-6-1

In yesterday's statement, Neville said "the old man that I just identified in the picture as Daner Crick was holding onto the door trying to work his way out of the cage. He couldn't stand up by himself. 17-15-3-1

"Mr. Crick kept coming out, so the deputy walked over to him, took a hold of him and pushed him back into the cage. The old man went up against the wall and hit the wall and fell down." 17-15-3-2

Neville said two "trusty" inmates tried to bring him to." 17-15-3-3

"I thought he was dead fore they took him out, the way the old man acted," Neville said. "They carried him upstairs and he was limp. I thought he was dead when they carried him upstairs." 17-15-3-4

Neville volunteered to take a lie detector test and said he is willing to testify before the grand jury concerning the Crick case. 17-15-3-5

Neville said Crick had "big sores all over his ankles and wrists . . . They looked like marks from chains." 17-15-3-6

Neville said he was in the cage with Crick for about three hours. He said he had just come to the jail from Municipal Court, where his case had been continued. 17-15-3-7

"All the time I was in there he (Crick) laid on the cement floor and didn't even move. He was naked all this time. There were deputies who saw him lying there, but they just acted like they didn't care," Neville said. He added, "he (Crick) was all dirty and it looked like he'd been there quite a while." 17-15-3-8

A report of the incident was made by sheriff's deputies and a signed statement given to a sheriff's investigator by a mental patient who was said to have been in the cage with Crick. 17-15-4-2

The mental patient was William A. Brown, the same inmate accused by sheriff's deputies of the fatal beating of another inmate, Elmer L. Reagan. Reagan's death touched off an investigation by the grand jury of alleged jail brutality. 17-15-4-3

Brown said in his statement that Crick had been sick in the cell for two days.

In another report made by Sgt. Donovan L. King,

who has been suspended by Sheriff Robert H. Fields for allegedly firing a tear gas shell into a cell. King stated: "I was advised that this man had been through d. t.'s, he had not had any clothes on him for two days, each time they were put on him he took them off and lay nude on the floor." 17-15-5-1

Arthur D. Pratt Jr., local authority on alcoholism, has stated that the best treatment for a person in "d. t.s" is to immediately get them to a hospital." 17-15-5-2

The investigation of Crick's death by The Star was trigged when his daughter, Mrs. Lula M. Wieland of Beech Grove, told The Star, "I'm a nurse and I know a man doesn't get pneumonia and die in a few hours." 17-15-5-3

According to the sheriff's reports Crick was found ill about 6 p. m. July 13 and taken to Marion County General Hospital where he died seven and one-half hours later. 17-15-5-4

James E. Bath, deputy prosecutor in charge of the grand jury, said yesterday that the grand jury will report Monday, but not on the probe of the Marion County Jail. 17-15-5-5

The Monday report, Bath said, will be on regular grand jury business. 17-15-5-6

"It's hard to say just when we'll have a report on the jail investigation," Bath said. "We want to hear every possible witness and then study the evidence. It is quite likely that the grand jury will make a special report regarding the jail," Bath said. 17-15-5-7

One of the page 17 articles in Complaint Exhibit 17 carried a two column headline, "Erbecker to Defend Squillan on Threat", and reads as follows:

Attorney William C. Erbecker of Indianapolis said last night he will defend Robert F. Squillan of Brooklyn, N. Y., who was arrested Wednesday night on a charge of making a threat on the life of President Lyndon B. Johnson. 17-17-1-4

Erbecker previously represented Squillan in Marion Criminal Court, Division 1, in March and obtained a suspended sentence for the 23 year old man on a robbery charge. 17-17-1-5

Erbecker said he offered his services to Mrs. Florence Dagrossa, Squillan's mother, last night on the basis that Squillan sought his counsel in September. 17-17-1-6

At that time, Squillan wrote a letter to Erbecker saying that Sgt. Edson Bowman of the Marion County Sheriff's department had been to their home and after threatening both him and his mother with arrest, had forced them to sign statements against Sgt. Charles W. Haine discharged sheriff's investigator. 17-17-1-7

Haine was fired last month after he was found guilty of accepting money from Mrs. Dagrossa and Squillan and on other departmental charges. 17-17-1-8

"I believe," Erbecker said, "that the only reason in the world why that boy could act so irrationally as making a threat on the life of the President is to stay out of the hands of the Marion County Sheriff's department." 17-17-1-9

Erbecker added that Squillan asked him to protect his rights in the September letter and that he believes Squillan's present trouble stems directly from "illegal" methods employed by the Sheriff's office. 17-17-1-10

Squillan will appear for arraignment today in Federal Court in New York City. He is being held on $25,000 bond. He was arrested by FBI agents as he got off an airplane at Kennedy International Airport and charged with making a threat to injure the President. 17-17-1-11

Erbecker said Mrs. Dagrossa will notify him immediately after the hearing today and tell him when to come to New York to prepare her son's defense. 17-17-2-5

Erbecker said he offered his services at no fee because he knows the family's financial plight and also

will represent the youth in a future hearing on a violation of probation charge. 17-17-2-6

Judge Eugene M. Fife of Marion Criminal Court, Division 1, filed a warrant against Squillan for violation of probation on Oct. 25. 17-17-2-7

Squillan disappeared from his Brooklyn home before he could be picked up on the charge. He turned up at the American Consulate in Rome, Nov. 3, and the same night The Indianapolis Star received a letter from Squillan in which he said he was giving himself up and had burned his draft card and mailed its ashes, along with a letter, to the FBI. 17-17-2-8

The other page 17 article in Complaint Exhibit 17 was referred to on the front page with a note which stated: "Governor asks that prisoners write him directly . . . Page 17." This article carried a two column headline: "Branigin Wants His Jail Mail Sent Uncensored", and reads as follows:

Governor Roger D. Branigin yesterday disclosed that he has instructed correction officials to let prisoners write directly to the Governor, without the censorship by prison officials applied to all other outgoing mail. 17-17-1-1

Branigin commented. "I thought there would be some hesitancy—we wouldn't be able to know what's going on, if the mail is censored. If a man wants to write to the Governor, he ought to be able to write to the Governor." 17-17-1-2

The policy, set about two months ago, has no connection with the current allegations of beating of prisoners in the Marion County Jail, the Governor said. The jail is operated by Sheriff Robert H. Fields and is not part of the state correctional system. 17-17-1-3

There also was no specific incident in the state system that prompted the change, he added. 17-17-2-1

"We thought it is a better opportunity . . . if a fellow is behind bars, for him to express himself."

Branigin stated. "I want to know. That doesn't necessarily mean I will believe what they write." 17-17-2-2

About 25 to 40 letters a week come to his office from prisoners in the state institutions, the Governor said. But the letters he received so far have not revealed anything startling, he continued. 17-17-2-3

"Most of them are asking for a review of their case, a parole or a transfer to another institution," Branigin said. 17-17-2-4

Exhibit 18 (to Complaint Paragraph 18).

Complaint Exhibit 18 (Tr. 71; 5267; SR 61; SE 843) is a copy of two front page articles published on November 13, 1965. One carried a three-column headline, "Separate Jail, Sheriff, Correction Chiefs Say," and reads as follows:

Completely separate operation of imprisonment and law enforcement functions was advocated yesterday by correction authorities as investigation of alleged brutality at the Marion County Jail continued. 18-1-4-1

The heads of Indiana's three adult correctional institutions for male prisoners said most authorities agree law enforcement and imprisonment are two non-related functions and should be operated as such instead of as one operation as they are at the Marion County Jail. 18-1-4-2

John W. Buck, superintendent of the Indiana State Reformatory, Pendleton, and a 25-year veteran of prison work, said he believes "abuses" in jail are held to a minimum where the jail and the sheriff's offices are separate. 18-1-4-3

Where a professional, experienced jailer is in charge instead of a professional policeman, the institution will be run more efficiently, he said. "Jailing and law enforcement are two different things," Ward Lane, warden at the Indiana State Prison, Michigan City, added. 18-1-4-4 "In larger cities, they have them separated." 18-1-5-1

Albert Ellis, superintendent of the Indiana State Farm, Putnamville, said special training is given men who work at the farm. "The work of a jailer is a different type of work." 18-1-6-1

Buck, head of the State Prison's Educational Program for many years and a criminology teacher at Anderson College, contended the ideal jail is operated on a "workable merit system." He hastily added he does not intend the merit system recommendation to be critical of either political party. 18-10-5-1

"I wouldn't say a policeman doesn't know how to handle a prisoner in jail," Ellis said. "A lot of it is good common horse sense. But a policeman arrests a man and keeps him until the courts decide his guilt or innocence. We try to help him and treat him humanely for the time he is separated from his home and community." 18-10-5-2

Ellis said he is a member of the American Congress for Corrections and the Wardens Association. 18-10-5-3

Buck pointed out a psychological problem in the possible animosity a prisoner may feel toward policemen who arrested him. Even if jailers wore different uniforms in areas where the two functions are combined, the inmates' sense of hostility would be reduced, he said. 18-10-6-1

Some of the larger cities in which the two are separated were listed as Miami, Los Angeles, Detroit and Chicago.

All state correctional institutions are operated by professional prison officials, not state police. 18-10-6-2

Persons who make the arrests should not belong to the same department charged with handling the prisoner afterward, Buck contended. 18-10-6-3

"When you get into a massive jail enterprise such as there is in Marion County, where institutions are larger than some state prisons in the country, you have to look at it positively and give serious consideration to the problem," Buck said. 18-10-6-4

The Marion County coroner said yesterday he is considering a "re-evaluation" of the report system concerning deaths of Marion County Jail inmates. 18-10-6-5

The coroner, Dr. Robert C. Collins, said he is primarily concerned with the cause of death, but added circumstances in the pneumonia death of Daner Crick may warrant more detailed information. 18-10-6-6

Crick, 62 years old, a retired painting contractor, died July 14 in Marion County General Hospital about seven and one-half hours after he was found nude and ill in a basement cage with a mental patient. 18-10-7-1

Sheriff's reports of the incident stated Crick had not "eaten for several days . . . had been having illusions and had been through O. T. S. . . . and had not had any clothes on him for two days." 18-10-7-2

Dr. Collins said a "mixup" in its office prevented the Crick case from being presented to the grand jury yesterday. 18-10-7-3

He said the evidence will be offered to the grand jury Monday. 18-10-7-4

The evidence includes a signed statement by Denzil Loren Neville Jr., 22, an inmate at the Indiana State Farm at Putnamville. 18-10-7-5

Neville has identified a photograph of Crick as the man he said he saw lie "naked . . . dirty . . ." and "sick" on the cement floor of a basement cage in the old jail last July. 18-10-7-6

Neville said while Crick lay motionless on the floor of the cell "there were deputies who saw him lying there, but they just acted like they didn't care. 18-10 7-7

Neville said he last saw Crick being carried "limp" by two floor boys from the basement of the jail. 18-10-7-8

George Cox, identified as a former inmate in the jail, was the only person who testified yesterday before the grand jury. 18-10-7-7

The regular report of the grand jury will be given at 2:30 p. m. Monday. 18-10-7-10.

Prosecutor Noble R. Pearcy said yesterday reports on the probe of alleged brutality in the jail probably will not be made until late next week. 18-10-7-11

Several prisoners who have testified before the Grand Jury had volunteered to take lie detector tests to substantiate their statements. 18-10-7-12

When asked yesterday if such tests were being conducted, Prosecutor Pearcy said, "if the grand jury wants lie detector tests, the tests will be arranged at the state police headquarters of any other place it might want them. 18-10-8-1

The other front-page article in Complaint Exhibit 18 carried a two-column headline, "Sheriff Fields Sues The Star," and reads as follows:

Marion County Sheriff Robert H. Fields yesterday filed suit in Marion Circuit Court for $834,480.40 against Indianapolis Newspapers Inc. for alleged defamation. 18-1-5-3

The suit was based on a series of stories appearing in The Indianapolis Star from Oct. 27 through yesterday regarding charges of brutality at the Marion County Jail made by prisoners and former prisoners. 18-1-5-4

The complaint charged the series of articles in The Star "willfully and maliciously" were contrived to mean he: 18-1-5-5

1. Was accessory-after-the-fact to murder. 18-1-5-6

2. Maliciously prosecuted or conspired to maliciously prosecute an innocent person for murder. 18-1-5-7

3. By force and threats endeavored to influence, intimidate and impede a witness. 18-1-5-8

The Star began an investigation of alleged brutality at the jail after receiving reports that the death of

Elmer L. Reagan, 50 years old, followed a beating by a deputy sheriff, rather than a mental patient as the sheriff's office had reported. 18-1-5-9

A former inmate of the jail, Charles P. McAdams, signed a statement given to an investigator for the Marion County coroner's office and a reporter for The Star in which he said he saw Reagan beaten by the deputy. 18-1-5-10

McAdams appeared before the Marion County Grand Jury Oct. 26, but he was taken to the sheriff's office in the jail both before and after the jury appearance and questioned by Fields and deputies. 18-1-5-11

McAdams subsequently repudiated his original statement. But more than a dozen other prisoners later gave statements indicating brutality at the jail. 18-1-6-3

Four other persons also gave statements saying that McAdams had told them of witnessing the beating of Reagan. 18-1-6-4

Reagan was beaten by the deputy in the jail July 14, according to McAdams' original statement. Reagan died in Marion County General Hospital Aug. 7 of pneumonia brought on by broken ribs, according to an autopsy report. 18-1-6-5

Exhibit 19 (to Complaint Paragraph 19).

Complaint Exhibit 19 (Tr. 72; 4070; SR 62; SE 847a) is a copy of two articles published on Sunday, November 14, 1965, on the first page of the second, or editorial section. These two articles shared a common headline "2 Men Died—Who Were They?" One pertained to Elmer L. Reagan and bore a headline entitled "Real Craftman When Working" and read as follows:

Fifty-year-old Elmer L. Reagan had achieved a reputation as an excellent tailor in clothing shops in Indianapolis and Louisville through the years, but drinking had all but erased that claim to frame. 19-1-5-1

However, evidence that his death Aug. 7 in Marion County General Hospital resulted from a beating at the hands of deputies instead of a mentally ill inmate put his name into public conversation to a degree he never enjoyed in life. 19-1-5-2

Harold L. Reagan, 55, Louisville, Ky., said his brother "was kind of fat when he was a youngster. We lived on a farm then and he more or less didn't have a chance to deal with other children his own age. 19-1-5-3

"I often thought that may have affected him in his later life. He was not too much of a social type, his older brother said. Elmer was the youngest of the boys, although his sister is younger than he." 19-1-5-4

When Reagan was 9 years old, the family moved to Louisville because of hard times on the farm. 19-1-5-5

Reagan completed junior high school in Louisville, and then went to work for a tailor where he learned his trade and met his wife, Helen, who worked as a beautician in the same building. 19-1-5-6

They married in the late 1930s and their son, Ronald, was born in 1940, Harold continued. 19-1-5-7

Another brother, Fred Reagan, 62, also of Louisville, said the marriage was a happy one for several years and then both started drinking and separated just as Ronald was about to begin school. The boy's maternal grandmother adopted Ronald and he took the last name of Banet. Ronald, now the father of three, lives in Clarksburg, Ind. 19-1-5-8

Mrs. Banet, Ronald's wife, said as far as she knows, Ronald didn't see his father from that time until he visted him in the intensive care section of General Hospital shortly before Reagan's death. 19-1-5-9

No record has been found of Elmer Reagan's early years in Indianapolis. Police found him drunk and unable to stand in the first block of East New York Street five days after Christmas, 1960. He had three other arrests here for drunkenness: In University Park

May 22, 1964, at Ohio and Illinois May 24 of this year and Vermont and Alabama, last June 25. 19-1-6-2

Since New Year's Eve of 1963, he had lived primarily at the Hoosier Hotel, 440 Massachusetts Avenue. 'He was the nicest guy you would ever want to meet,' George Waldren, manager of the hotel said. 'He drank heavily but when he was up and around, he was very nice. No profanity, no trouble at all except drinking.' 19-1-6-3

Reagan lived at the hotel until April of 1964 and returned in January of this year, staying there until he went to the jail for the last time. 19-1-6-4

In his $10.50 a week room, which has a window that looks across a tar paper roof for about 20 feet where it meets another wall of the hotel, Reagan spent most of his time, Waldren said. 19-1-6-5

"When he was working, he always came home to his room after stopping to pick up some whisky or wine and seldom left. 'I bet he was not out at night three times since he returned here in January," Waldren added. "He had a television, but the tube didn't work. He would sit in there and listen to the sound and drink." 19-1-6-6

The last time Reagan climbed the 21 steep stairs to the second floor room was June 18, Waldren said. 19-1-6-7

Reagan had worked his trade at the Leon Tailoring Company the last five years. "He didn't work steady, but he was a real craftsman when he did work," his former boss said. "He was good enough that he didn't have to work steady to keep his job. He was the nicest guy there was when he was sober." 19-1-6-8

The second article in Complaint Exhibit 19 pertained to Daner Crick, bore a headline "He Was Always In Good Humor," and reads as follows:

The former wife of Daner Crick, who died July 14 as the result of alleged brutality and deglect at the

Marion County Jail, said yesterday Crick often drank too much but certainly was no criminal. 19-1-7-1

Then Mrs. Muriel Crick, his wife for 40 years before they were divorced, sobbed: 19-1-7-2

"We would be married today, if he as alive. He had been doing so good I was going to remarry him. I didn't div[redacted] him because I didn't love him." 19-1-7-3

Of his latest drinking spree, which landed him in jail and subsequently in Marion County General Hospital, where he died, Mrs. Crick said: 19-1-7-4

"He didn't bother anyone and always was in good humor, but if pushed far enough he would fight back. I've wondered if that is what happened to him when he was in jail the last time." 19-1-7-5

Although he drank throughout his adult life, he stayed sober for a 14-year period at one time and during the last year had only gone on three benders, associates recalled. 19-1-7-6

The last one ended in his death from pneumonia, allegedly resulting from the fracture of two ribs and lack of food and attention in the jail where he was, according to evidence, allowed to lie sick and nude without food on a bare, cold concrete floor for two days. 19-1-7-7

Crick had sought help during the last year at the Central Indiana Alcoholism Clinic operated at Central State Hospital by the Indiana Department of Mental Health. 19-1-7-8

The Rev. Chester Minton, an Episcopal priest who attends court sessions for drunkenness cases as a consultant for the clinic said, "a person with a drinking problem should be put in the proper category as a sick person, not a criminal." 19-1-8-1

Crick's police record goes back to 1938 when he first was arrested for drunkenness but the record then is clear to 1958 after which he was arrested eight more times for being drunk. 19-1-8-2

During the year before his death, Crick worked for

Ralph Hockett Buick, Pontiac, Olds and GMC Sales at Greenfield. 19-1-8-3

"We became close friends," Hockett said yesterday. "He was a handy man but practically ran the place except for sales. I guess he died with a key to the front door in his pocket." 19-1-8-4

"He had saved up several hundred dollars before that last year," Hockett said, "but I expect he drew it out to get drunk on." 19-1-8-5

In earlier days, Crick operated his own painting and contracting business, but when his drinking began to interfere with his business and the financial pressure became too great, Mrs. Crick divorced him. 19-1-8-6

In the winter of 1963-64, Crick worked for the Volunteers of America, a national religious and welfare organization, where he ran the paint shop where donated furniture was refinished. He was described by the director as "the best refinisher we ever had." 19-1-8-7

Crick was the father of three daughters and a son. One daughter is a registered nurse and is married to the sales manager for a leading automobile dealer. Two other daughters are married to a bank clerk and a factory worker. His son works for an insurance company. 19-1-8-8

"He always was real good with the kids and was a bit strict," Mrs. Crick said.

"He visited me just before that last drunk," she said sadly. 19-1-8-9

Exhibit 20 (to Complaint Paragraph 20).

Complaint Exhibit 20 (Tr. 73; 5269; SR 63; SE 8478) is a copy of an article published on the front page on Monday, November 15, 1965, with a four-column headline, "Evidence Delayed In Jail Probe", and reads as follows:

> Evidence in the death of Marion County Jail inmate Daner Crick will not be presented to the Grand Jury until Wednesday, so the probe of alleged jail brutality may extend into next week, the fifth week, officials said last night. 20-1-2-1
>
> James E. Bath, deputy prosecutor in charge of the jury, said about 120 persons already have testified and there is no indication how many more may be called. 20-1-3-1
>
> "This probe is self-perpetuating," he said. "Each new piece of evidence seems to lead to more witnesses." 20-1-3-2
>
> Although the jury's jail report will be delayed, the regular jury report will be issued at 2:30 p.m. today in Criminal Court. 20-1-4-1
>
> Crick, 62 years old, died July 14 of natural causes, but there is strong evidence his illness was caused by brutality or neglect. He had suffered two broken ribs. 20-1-4-2
>
> The evidence includes a signed statement from Denzil Neville Jr., 22, an inmate at the Indiana State Penal Farm at Putnamville, who identified a photograph of Crick as the man he saw left naked, dirty and sick on the cement floor of a basement cell in the old county jail. 20-1-4-3
>
> The evidence was ready for the jury last Friday but was not presented because of a mixup. It then was to come before the jury today, but one juror will be absent so the prosecutor's office delayed the session until Wednesday. 20-1-4-4
>
> "The jury can hear evidence with only five of its six members present, but I think they all should hear

all the evidence on an investigation as important as this one," Bath stated. 20-1-5-1

Since the probe started the jury has heard from dozens of former jail inmates who have told of beatings by deputies, mistreatment, and other incidents. 20-1-5-2

The investigation began after The Indianapolis Star revealed a statement from an inmate, Charles P. McAdams, that he saw another inmate, Elmer L. Reagan, beaten by a sheriff's sergeant. Reagan later died of pneumonia brought on by the beating. 20-1-5-3

McAdams later repudiated the statement after he was seized by sheriff's deputies and interrogated twice. He then was rearrested and was made a jail trusty. However, at least four persons have stated that McAdams told them of Reagan's beating. 20-1-5-4

Exhibit 21 (to Complaint Paragraph 21).

Complaint Exhibit 21 (Tr. 74; 5270; SR 64; SE 848) is a copy of a front page article published on November 16, 1965, which carried a two-column headline, "Inmates Caged In Old Jail, Deputy Charges," and reads as follows:

Mental patients and alcoholics held in the old Marion County Jail often were cooped in a small cage in the basement "like animals," a deputy charged last night. 21-1-7-1

At times as many as eight inmates were locked in an 8-foot by 12-foot cage and "they howled and fought like animals," the deputy said. 21-1-7-2

The Marion County Grand Jury, meanwhile, received evidence yesterday in the death of an inmate, Daner Crick, 62, who died July 14 of natural causes but had suffered two fractured ribs. 21-1-8-1

The evidence was presented to the panel, probing brutality at the jail, by Bethel E. Gaither, chief investigator for the Marion County coroner's office. 21-1-8-2

It included two statements from a former inmate, Denzil Neville, Jr., who has identified Crick as the

prisoner he said was left naked, dirty and sick on the cement floor of a basement cell in the old jail.

The evidence was given to James E. Bath, deputy prosecutor in charge of the jury. The panel will not reconvene until tomorrow because a juror is absent. 21-1-8-3

The deputy who offered the statements about jail treatment requested he not be identified, but he already has testified before the jury. 21-1-8-4

Holding mental patients in the jail has been criticized sharply for some time, and in the regular 1965 session of the Indiana General Assembly, a bill which would have prohibited holding patients in the jail was introduced. 21-1-8-5

But the measure was killed by the Democratic-controlled Affairs of Marion County Committee in the House of Representatives. 21-1-8-6

The deputy said he complained to his sergeant about the treatment. He said the sergeant also disapproved, but "we couldn't do anything."

Some of the drunks suffered from delirium tremens, the deputy said. 21-1-8-7

The cage, where they often were held, "had no toilet facilities and the floor was covered with filth." He said the cage was cleaned only 21-1-8-8 when the grand jury was scheduled to visit the jail. 21-16-4-1

"We'd hear they were coming about three days ahead of time and then the jail trustees would work all the time cleaning up the basement and the rest of the jail to make a good impression." 21-16-4-2

The deputy also was critical of the new jail operation. The new jail, partially completed, has been opened for several months. 21-16-4-3

The deputy said only one floor of the new structure actually is finished and almost 400 prisoners were jammed into space designed for 120 prisoners. 21-16-4-4

(Sheriff Robert H. Fields admitted last week that

the new jail is overcrowded and said it probably would be until it is finished.) 21-16-4-4

The deputy also scored the food served to prisoners, as did a former prisoner released from jail last week. 21-16-4-5

About 120 persons have testified before the jury since the jail brutality probe started after another inmate signed a statement charging that Elmer L. Reagan, held on a drunkenness charge, was beaten and kicked by a jail sergeant several weeks before he died Aug. 7 of pneumonia brought on by beating injuries. 21-16-4-6

Exhibit 22 (to Complaint Paragraph 22).

Complaint Exhibit 22 (Tr. 75; 5271; SR 65; SE 850) is a copy of a front-page article published on November 17, 1965, which carried a small 8-column headline, "Judge Offers 5-Point Jail Reform," a one-column sub-headline, "Propose Fewer Ill Inmates," and reads as follows:

A five-point program to reduce the number of alcoholics and mental patients held in jail and provide a new system for investigating alleged brutality in the Marion County Jail and city lockup is planned by Judge John C. Christ, it was learned yesterday. 22-1-1-1

Christ, judge of Municipal Court, Room 5, said he will call a special meeting of the three other misdemeanor court judges to discuss the program. 22-1-1-2

Christ's plan follows the sweeping Marion County Grand Jury investigation of the deaths of two county jail inmates and charges by more than a dozen other prisoners and former prisoners who have told of deputies beating inmates. 22-1-1-3

The program calls for:

1. A review of the procedure for jailing and caring for all prisoners in the county jail and city lockup. 22-1-1-4

2. Formulation of a policy to insure that immediate medical care or hospitalization can be provided for any mental patient or alchoholic held in jail. 22-1-1-5

3. A plan to segregate mental patients and alcoholics from other prisoners. 22-1-1-6

4. A plan which would provide investigation of complaints of jail or lockup mistreatment by an impartial board or panel, rather than by police or deputies. 22-1-1-7

5. Agreement on a procedure for having a court-appointed doctor or psychiatrist examine sick, injured, mentally ill or alcoholic prisoners before they appear in court. 22-1-1-8

Christ said he already has discussed the problem with the other Municipal Court judges, William T. Sharp, Ernie S. Burke and Harry F. Zaklan. 22-1-1-9

"All of them agree that the jail just isn't the place for those people," he said. "And all of the judges have shown interest in working out a plan so something can be done about their treatment." 22-1-1-10

Christ long has been a critic of the policy of jailing persons who are chronic alcoholics or are awaiting preliminary mental examinations. 22-1-1-11

The two men whose deaths in the jail are being probed by the jury both had serious drinking problems. 22-25-4-1

One man, Elmer L. Reagan, died Aug. 7 of pneumonia brought on by beating injuries, and the other, Daner Crick, died July 14 of pneumonia but had suffered two fractured ribs and, according to the statement of another prisoner, had been left naked, dirty and ill on the concrete floor of a basement cage. 22-28-4-2

Christ said alcoholics and mental cases need medical and psychiatric help and are not criminals. 22-28-4-3

He also pointed out that the new, partially completed county jail does not contain space for care and treatment of inmates who may be mentally ill. 22-28-4-4

Probes of mistreatment complaints should be carried out by independent bodies because "too many times we are faced with the problem or having a police agency investigate itself in an allegation of mistreatment or brutality," the judge said. 22-25-5-1

In the current investigation, Sheriff Robert H. Fields ordered his deputies to pick up and question the inmate, Charles P. McAdams, who had signed a statement that Reagan was beaten by a jail sergeant. 22-28-5-2

After he was interrogated McAdams repudiated the statement, but since then at least four persons have said McAdams had told them that Reagan was beaten by a deputy. 22-28-5-3

"I don't want to criticize anyone or any department," Christ said, "but I believe we need objective investigations into alleged brutality by impartial agencies." 22-28-5-4

Christ said the Indianapolis Board of Public Safety could check complaints of mistreatment by city police while the office of Prosecutor Noble R. Pearcy could check complaints about the county jail. 22-28-5-5

The need for a physician to examine alcoholics or mental cases was recognized by the Marion County Council which provided a salary of $10,000 for the doctor in the 1966 budget. 22-28-5-6

said, persons found to need either medical or psy-

On the basis of the doctor's examination, Christ said, persons found to need either medical or psychiatric aid would be given immediate care and not held in jail. 22-28-5-7

Christ proposed that a section of the city lockup which presently is not used be used as a treatment center for alcoholics or observation area for inmates believed to be mentally ill. 22-28-5-8

The grand jury did not meet yesterday but will resume the probe today. 22-28-5-9

Exhibit 23 (to Complaint Paragraph 23).

Complaint Exhibit 23 (Tr. 76; 5272; SR 66; SE 853) is a copy of a front-page article published on November 18, 1965, which carried a one-column headline, "Grand Jury Jail Probe Nears End," and reads as follows:

> After hearing testimony from nearly 130 witnesses, the Marion County Grand Jury investigation of alleged county jail brutality—one of the largest local jury probes on record—is expected to end Tuesday, a deputy prosecutor said yesterday. 23-1-7-1
>
> Nine persons testified yesterday and two more are scheduled to appear before the jury today. 23-1-7-2
>
> James E. Bath, the deputy prosecutor, said he expects the panel to wind up the four-week probe with deliberation tomorrow and Monday and to submit a special report—along with indictments if any are returned—to the Criminal Court judges on Tuesday.
>
> Among persons who testified yesterday was Capt. Richard Scott, the chief jailer. 23-1-7-3
>
> Deputies Roscoe E. Kennedy, Ronald Henry and Robert Alfrey also testified along with Judge William T. Sharp of Municipal Court, Room 4, and Policewoman Barbara Handley, formerly in charge of handling mental patients for police. 23-1-7-4
>
> Three Indiana State Penal Farm inmates, Thomas J. Duffy, Charles Bradley and Denzil Neville Jr., testified. All are former jail inmates. 23-1-7-5
>
> Since grand jury action is secret, the outcome of its probe will not be known until next week, but Bath and John T. Davis, also a deputy prosecutor, said the jury could return a report on jail conditions or issue indictments along with a report. 23-16-4-1
>
> In an investigation of conditions at the Indiana Girls School last year, the jury returned a report criticizing the administration of the school, but did not mention names in the report or issue indictments. 23-16-4-2

Seventy-five persons testified in the Girls School probe. 23-16-4-3

The jail investigation includes the deaths of two inmates, Elmer L. Reagan and Daner Crick, and charges of beatings by deputies undergone or witnessed by more than a dozen other inmates. 23-16-4-4

Reagan died of pneumonia brought on by beating injuries. According to Charles P. McAdams, another inmate, Reagan was beaten by a jail sergeant. McAdams later repudiated the charge but four persons said McAdams told them he had seen a deputy beat a prisoner who later died. 23-16-4-5

Crick died of natural causes but had suffered two fractured ribs. According to evidence he had been left on the floor of a basement cell although he was naked, dirty and ill. 23-16-5-1

There also have been complaints of mistreatment and bad conditions, including a statement yesterday from an inmate who told The Indianapolis Star that prisoners refused to eat two meals recently because some inmates had not received needed medical attention. 23-16-5-2

The inmate, who asked that he not be identified, said a doctor was called soon after the inmates refused to eat. 23-16-5-3

Capt. Scott said he knew of no such incident. But Scott said prisoners in one cell block recently refused to eat because sufficient trays had not been provided. 23-16-5-3

Exhibit 24 (to Complaint Paragraph 24).

Complaint Exhibit 24 (Tr: 77; 5273; SR 67; SE 856) is a copy of an article published on page 31 on November 19, 1965. This article carried a three-column headline, "Grand Jury Concludes County Jail Investigation," and reads as follows:

The Marion County Grand Jury yesterday concluded

the hearing of evidence in the probe of alleged brutality and mistreatment of prisoners in the Marion County Jail, after one of the longest and most grueling probes on grand jury records here. 24-31-6-1

A deputy coroner, Dr. Marvin D. Dziabis, was the only witness to testify yesterday. He brought the total number of witnesses to 129. 24-31-6-2

Dr. Dziabis performed the autopsy on jail inmate Daner Crick, who died July 14 of pneumonia. A former inmate of the jail said Crick lay dirty, sick and untended in the basement of the old jail for two days before he was taken to the hospital. 24-31-6-3

Deputy prosecutor James E. Bath said the jury will begin its deliberation on the jail probe today and possibly will work Saturday in an attempt to reach a conclusion which will result in a special report of the grand jury next Tuesday. 24-31-6-4

"They took their work home with them last night in an attempt to reach a conclusion," Bath said. 24-31-6-5

The jail probe was sparked Oct. 26, when a prisoner, Charles P. McAdams gave a statement in which he said he had seen a deputy sheriff beat a prisoner who later died. 24-31-6-6

However, McAdams repudiated his statement after he was picked up and questioned by deputy sheriffs before and after his testimony before the grand jury. 24-31-6-7

But four other persons, including McAdams' girl friend, Mrs. Lura Kimbley, said McAdams told them he had seen a deputy beat a prisoner who later died. 24-31-6-8

Originally, McAdams said he saw a sheriff's sergeant beat Elmer L. Reagan on July 14, after the deputy and the inmate argued about some medicine. Reagan died in Marion County General Hospital Aug. 7 of pneumonia brought on by 15 broken ribs. 24-31-6-9

When The Star disclosed Reagan's death, sheriff's deputies said Reagan had been beaten by a mental

patient, who was later charged with second degree murder. But when The Star learned of Reagan's death, no reports existed regarding Reagan's beating, his hospitalization or his death, and no investigation was in progress. 24-31-6-10

After McAdams repudiated his story, dozens of prisoners and former prisoners came forth to testify regarding acts of brutality and mistreatment they said they saw while inmates of the old jail. 24-31-7-1

Spokesmen for the prosecutor's office said the grand jury's report could contain criticisms of the jail administration, as they did in an investigation of the Indiana Girls School, without mentioning names or returning indictments. 24-31-7-2

Or, the grand jury could return indictments along with a special report, if sufficient evidence had been presented to support the charges. 24-31-7-2

Exhibit 25 (to Complaint Paragraph 25).

Complaint Exhibit 25 (Tr. 78; 5274; SR 68; SE 858) is a copy of a front-page article published on November 20, 1965, which carried a two-column headline, "2d Judge Joins Move To Alter Set-Up At Jail," and reads as follows:

A Municipal Court judge said yesterday he approves of a fellow judge's plan to reduce the number of alcoholics and mental patients held in the Marion County Jail. 25-1-7-1

Judge William T. Sharp of Municipal Court, Room 4, said the plan's other provision, which calls for a new system of investigating alleged brutality in the jail and the city lockup, has his full support. 25-1-7-2

The plan was proposed Wednesday by Judge John C. Christ of Municipal Court, Room 5. 25-1-7-3

Christ's program calls for: 25-1-7-4

1. A review of the procedure for jailing and caring for all prisoners in the county jail and the city lockup. 25-1-7-5

2. Formulation of a policy to insure that immediate medical care or hospitalization can be provided for any mental patient or alcoholic held in jail. 25-1-8-1

3. A plan to segregate mental patients and alcoholics from other prisoners. 25-1-8-2

4. A plan which would provide investigation of complaints of jail or lockup mistreatment by an impartial board or panel, rather than by police or deputies. 25-1-8-3

5. Agreement on a procedure for having a court-appointed doctor or psychiatrist examine sick, injured, mentally ill or alcoholic prisoners before they appear in court. 25-1-8-4

Sharp, who commended The Indianapolis Star for baring reports of alleged brutality and mistreatment of prisoners and trying to rectify the situation, declared: 25-1-8-5

"This entire situation at the jail is one which has needed exposure for a long time." 25-1-8-6

Christ's plan and Sharp's indorsement follow the penetrating Marion County Grand Jury probe of the deaths of two county jail inmates and charges by more than a dozen other prisoners and former prisoners that deputies beat inmates. 25-1-8-7

The grand jury is expected to make a special report on its findings Tuesday. 25-1-8-8

Judge Christ said that Judge Sharp and the other two Municipal Court judges, Ernie S. Burke and Harry F. Zaklan, have been invited to attend a meeting Wednesday to push the reform program. 25-1-8-9

Sharp declared that having a doctor or psychiatrist assigned to the courts would be an invaluable aid to the judges, who are not qualified to determine prisoner's conditions. 25-12-3-1

The move, he said, would reduce sharply the number of persons held for mental examination. Doctors' reports show that a third or half of the persons who pass through his court for mental examinations do not

need them, Sharp explained. The present method often forces a combined stay of more than 80 days in the jail and the overcrowded Marion County General Hospital for those awaiting mental examination, he said. 25-12-3-2

Christ long has been against jailing of persons who are chronic alcoholics or are awaiting mental examinations. 25-12-3-3

Elmer L. Reagan and Daner Crick, the two men whose deaths in the jail are being probed by the jury, both had serious drinking problems. 25-12-3-4

Exhibit 26 (to Complaint Paragraph 26).

Complaint Exhibit 26 (Tr. 79; 5275; SR 69; SE 861) is a copy of a front-page article published on November 21, 1965, which carried a six-column headline, "Other Cities Found A Way—Treatment, Not Jail, Urged For Alcoholics," and reads as follows:

Other cities have found cheaper effective ways of handling alcoholics and drunkenness offenders than throwing them in jail.

Several authorities on alcoholism spoke out after two men arrested for drunkenness died of pneumonia in Marion County General Hospital after being transferred from Marion County Jail. 26-1-1-1

According to evidence submitted to the Marion County Grand Jury, neither of the inmates received adequate medical attention in the jail, and one of them allegedly was beaten by a sheriff's deputy. 26-1-1-2

The Rev. Chester G. Minton, an Episcopal priest and a consultant to Municipal Court judges for the Central Indiana Alcoholism Clinic, said that Chicago, Detroit, Boston, Washington and New York are among cities which send drunkenness offenders to rehabilitation centers. 26-1-2-1

Father Minton says the centers are proving cheaper and more effective in dealing with alcoholics. 26-1-2-2

Arthur D. Pratt, founder and president of 29 Flynn Christian Fellowship houses for alcoholics in the United States, said the rehabilitation centers, as the one in Boston, for instance, keeps an alcoholic in detention just long enough to "dry him out." 26-1-3-1

After two or three days in detention, the alcoholic is talked to by social workers and employment counselors and sent looking for work. 26-1-3-2

In the meantime, he is given good food and vitamins to build his health. 26-1-3-3

"This saves the city of Boston appreciably," Pratt said. 26-1-3-4

"The center is cheaper to run than any jail and the people are only spending a week instead of 30 days or more in the care of the city," he said. 26-1-4-1

"The consequences are that there is an appreciable saving involved and instead of building up a group of resentful people, you form a better relationship with them," he said. 26-1-4-2

Pratt admits that the alcoholics tend to return time and time again, just as they return to jail time and time again in Indianapolis. 26-1-4-3

"But we must understand that many alcoholics actually are counting on refuge in the county jail or on the state farm," Pratt said. 26-1-4-4

"The rehabilitation center tends to undermine their dependency pattern because it does not provide nearly the amount of security and supportive help that jails and state farms do," he added. 26-1-5-1

"Most important," he said, "the Boston plan is a positive approach to the man's problem." 26-1-5-2

Capt. Daniel Boyer, director of the Salvation Army's Harbor Lights Program, pointed out that no amount of punishment will stop an alcoholic from drinking. 26-1-5-3

"I haven't seen anybody it (jail) has helped yet," he said. 26-1-5-4

Alcoholics can't stop drinking without proper help,

he said, because of the physical problems of blood cell adaptation which causes them to absorb and retain more alcohol than blood cells in the average person. 26-1-6-1

Mentally, Pratt said, there is an obsession to drink which is similar to many other obsessive compulsive illnesses. 26-1-6-2

"And probably most important of all," Pratt said, "there is a profound feeling of defeat and despair and the person has given up hope of fulfillment of success and is literally retreating from responsibility and hope for personal success." 26-1-6-3

Municipal Court judges are taking a new look at the problems of jailing alcoholics and persons with other mental illnesses. 26-1-7-4

A plan proposed recently by Judge John C. Christ of Municipal Court, Room 5, calls for immediate medical attention for any mental patient or alcoholic held in jail and a new procedure for the medical and/or psychiatric examination of persons held in jail. 26-23-3-1

Judge Christ would also segregate mental patients and alcoholics from other prisoners. 26-23-3-2

He has been joined by Judge William T. Sharp of Municipal Court, Room 4, who, with Christ, indorses an impartial investigation of alleged brutality in the county jail and city lockup. 26-23-3-3

The County Grand Jury is expected to make a special report Tuesday on its findings in its extensive investigation into alleged brutality in the County Jail. 26-23-3-4

The State of Indiana operates a treatment center for alcoholics at Central State Hospital, but patients must be sober for admittance so they can sign an agreement to stay at least 30 days and attend lectures, movies, discussions and group therapy. 26-23-3-5

There is also outpatient treatment, but before anyone can be helped, they must admit they have a drinking problem, an admission the wettest drunk is reluctant to make. 26-23-3-6

Detention in jail services to "dry out" an alcoholic, but without proper medical supervision, an alcoholic sobering up in jail may suffer delirium tremens resulting from starvation. 26-23-3-7

Alcoholics usually have sustained themselves with little but alcohol and without even that to supply energy, the alcoholic's brain stops functioning properly and the alcoholic begins to suffer from wild hallucinations. 26-23-3-8

In this condition, an alcoholic can be hard to handle and may be abusive in his language. 26-23-3-8

Jailers, untrained to handle the situation, tend to avoid the repusive drunk and in some cases have been known to react to a drunk's delirious remarks by striking him. 26-23-3-8

Judges themselves have not admitted it for publication, but privately they and court observers say there is now little that can be done in Indianapolis except to jail an alcoholic. 26-23-3-9

Without money or a place to stay, many not-so-drunk but well-known alcoholics actually seek refuge in jail or on the state farm as cold weather approaches. 26-23-3-10

Drunk affidavits in Municipal Court last month, for instance, swelled to 720. 26-23-3-11

Several observers are hoping that either St. Vincent's Hospital or Sunnyside Sanitarium can be converted into a rehabilitation center for alcoholics if and when they are abandoned by their present users. 26-23-3-12

Exhibit 27 (to Complaint Paragraph 27).

Complaint Exhibit 27 (Tr. 80; 5276; SR 70; SE 863) is a copy of a front-page article published on November 22, 1965, which carried a one-column headline, "Jury Reports Tomorrow On County Jail," and reads as follows:

The Marion County Grand Jury met in closed session for two hours yesterday and for four hours Satur-

day, preparing to report tomorrow on its probe of alleged brutality in the Marion County Jail. 27-1-5-1

The final meeting before tomorrow's 10:30 a.m. report is to be held today to conclude what was described by Deputy Prosecutor James E. Bath, in charge of the grand jury, as "the biggest, longest, most grueling investigation in memory." 27-1-5-1

A total of 129 witnesses have been heard by the jury in its investigation of two jail deaths and inmates' charges that they were beaten by deputies. 27-1-5-2

Exhibit 28 (to Complaint Paragraph 28).

Complaint Exhibit 28 (Tr. 81; 5277; SR 71; SE 813) is a copy of a front page article published on November 23, 1965, which carried a two column headline, "Threatened LBJ To Avoid Jail Here: Squillan", and reads as follows:

New York City—Robert F. Squillan said yesterday he threatened the life of President Lyndon B. Johnson in order to avoid return to Indiana and possible imprisonment in the Marion County Jail. 28-1-7-1

In a notarized statement to his attorney, William C. Erbecker, Squillan reported he was threatened and harassed by an investigator for the sheriff's department to the extent that he "blew my top." 28-1-7-2

Squillan's statement came on the eve of a Marion County Grand Jury report on charges of brutality at the jail which is scheduled to be returned this morning. 28-1-8-1

Squillan specifically waived his right of privileged communication with his attorney and authorized Erbecker to release his statement, which was notarized by Anthony A. Euk, lieutenant in charge of probation and prison employes at the Federal Detention Headquarters here. 28-1-8-2

Squillan said Sheriff's Sgt. Felson Bowman repeatedly threatened him with imprisonment for parole violation and bribery in order for the sheriff's depart-

ment to obtain evidence against Sgt. Charles W. Haine. 28-1-8-3

Squillan said he signed a statement against Haine prepared by Sgt. Bowmair because of "being afraid of losing everything that I had worked hard for after my return." 28-1-8-4

Squillan, a Brooklyn (N. Y.) resident, was on probation and had been moved up from $60 a week to $100 a week in five months on his job until the sheriff's investigator entered the picture, Squillan said. 28-1-8-5

Bowman came to see him and called him several times and demanded he testify against Haine at a Sheriff's Merit Board hearing, repeating the threat to have him jailed, Squillan said. 28-24-2-1

"The thought of going back to that jail with its miserable conditions led me to start taking drinks, staying alone and becoming angry with my own family and a generally miserable attitude," Squillan said. 28-24-2-2

"I lost my appetite and became quarrelsome and frustrated and finally, in desperation, I fled the country and went to Frankfurt, Germany, with the avowed purpose of defecting to Soviet Russia," Squillan said. 28-24-2-3

He related his travels subsequently took him to Bonn and Berlin in Germany, and to Rome. He decided against defecting. 28-24-2-4

Squillan said that he had been bothered by his dishonorable discharge from the Army and had once written to President Johnson in attempt to have the discharge changed to honorable. He said he had received a letter in return from a general, saying the change would be impossible. 28-24-2-5

While he was in West Berlin, Squillan said, he read a newspaper story which reported the case of another man discharged 13 years ago in which President Johnson had converted the discharge from dishonorable to honorable. 28-24-3-1

Squillan said he read the story over "40 or 50 times", and decided to write to the FBI expressing his feelings. 28-24-3-2

Squillan in the letter threatened President Johnson. 28-24-3-3

After going to the American Consul in Rome for a loan to return to the United States, Squillan was returned and arrested by the FBI and Secret Service on his arrival at Kennedy International Airport here. 28-24-3-4

Speaking of the letter, Squillan said, "I was not in my right mind at the time and was so crazed by the thought of the so-called justice that I just wanted to end it all. I knew that the Federal government would arrest me for this letter and this is what I wanted for I did not want to go back to Indiana . . ."

Squillan said he wants Erbecker to request a psychiatric examination for him. 28-24-3-5

Squillan received probation and a suspended sentence of 1-to-40 years from Judge Eugene M. Fife of Marion Criminal Court, Division 1, on a robbery charge in March, 1965. 28-24-3-6

Sgt. Haine was alleged by the sheriff's department to have taken $600 from Squillan and $200 from Squillan's mother, Mrs. Florence Dagrossa in exchange for obtaining the suspended sentence. 28-24-3-7

Haine was discharged by the Sheriff's Merit Board Oct. 26 after he was found guilty of taking the money from Mrs. Dagrossa and numerous other charges. Squillan did not testify before the merit board but had been returned to Indianapolis earlier to testify before the grand jury. 28-24-4-1

Squillan said in yesterday's statement "Sgt. Charles Haine could not conceivably have had anything to do with my receiving probation." 28-24-4-2

Squillan has a hearing scheduled in Federal Court here Wednesday. 28-24-4-3

In Indianapolis, the grand jury wound up its investigation of alleged brutality at the jail yesterday after

hearing 129 witnesses in the four-week probe. 28-24-4-4

James E. Bath, deputy prosecutor in charge of the grand jury, said yesterday he could not say whether the jury report will include any indictments. 28-24-4-5

Such information is secret, by law, until the report is made to the Criminal Court, Bath said. Any revelation of indictments or the lack of them would be a law violation. 28-24-4-6

Exhibit 29 (to Complaint Paragraph 29).

Complaint Exhibit 29 (Tr. 82-83; 2642; SR 72-73; SE 199) is a copy of three front-page articles and a front-page editorial published on November 24, 1965. One of the front-page articles carried a large 8-column headline, "Judge Charges Whitewash," a four-column subheadline, "Jury Dismissal Of Jail Abuse Reports Widely Criticized," and reads as follows:

Criticism mounted last night in the wake of a Marion County Grand Jury report which "exonerated" the sheriff's department of brutality charges. 29-1-5-1

Judge Eugene M. Fife Jr. of Criminal Court Division 1, charged the report was a "whitewash" of the situation at the county jail. 29-1-5-1

Dr. Robert G. Risk, president of the Indiana Civil Liberties Union, expressed surprise at the reports and said, "I feel quite sure there has been some brutality in the jail." 29-1-5-2

After reading the grand jury's four-page report, Judge Fife said, "This report is obviously a whitewash."

Fife predicted the report will "result in a huge public outcry." 29-1-5-3

Fife and Judge Saul I. Rabb of Criminal Court, Division 2, are the presiding judges over the grand jury and the jury made its report to them. 29-1-5-4

Fife said he did not know what could have motivated the grand jury to issue such a report "unless they were controlled by the prosecutor all the way." 29-1-5-5

Marion County Prosecutor Noble R. Pearey and Sheriff Robert H. Fields are close personal friends and political allies. 29-1-5-6

The Prosecutor's office assists and guides the jury throughout its investigations and consequently can play an enormous part in determining the direction any probe will take and its conclusions. 29-1-5-7

The special report of the grand jury said, "In an exhaustive study . . . of conditions at the Marion County Jail, we have found no evidence to substantiate the allegations concerning brutality by the Marion County Sheriff's deputies." 29-1-5-8

Only criticism of the sheriff's department by the jury was directed at use of tear gas on one prisoner. 29-1-5-9

"We cannot condone the use of tear gas to quell one unruly individual prisoner," the jury said. "We feel that such a drastic measure should be used only in the event of a riot or major disturbance." 29-1-5-10

Judge Fife pointed out that the jury chose to believe one-half of the original statement of Charles P. McAdams, that relating to the tear gas case, but chose to disbelieve the other half, that relating to the beating of Elmer L. Reagan, who died of pneumonia brought on by 15 broken ribs. 29-1-5-11

Sgt. Donovan King was suspended indefinitely by Fields for firing the tear gas charge at a soldier prisoner in the jail after McAdams made his statement. 29-1-6-2

The jury indicted William A. Brown, former mental patient at the jail, yesterday for second-degree murder in the death of Reagan. 29-1-6-3

McAdams signed a notarized statement Oct. 22 in which he said he saw Reagan severely beaten by a deputy sheriff. The sheriff's department contended

the beating was inflicted by Brown. No explanation was given as to why Reagan, who was charged with drunkenness, was put in the same cell with a mental patient. 29-1-6-4

"Bethel E. Gaither, Marion 29-1-6-5 County coroner's office chief investigator, who took McAdams' original statement and presented it to the grand jury, was angry at the report. 29-12-1-1

"It's scandalous," he said of the report, "and regardless of their actions, I've been left with an unexplained murder. They will never prove that William A. Brown killed Elmer Reagan." 29-12-1-2

McAdams repudiated his original statement after he was questioned at lenght at the sheriff's office both before and after his appearance before the grand jury. 29-12-1-3

"I don't care what the grand jury says," Gaither said, "McAdams told the judge (Fife) and I the truth. That man (McAdams) isn't smart enough to make up a lie like that." 29-12-2-1

Gaither also took exception to a part of the report which noted that McAdams had been given a lie detector test regarding his statement. 29-12-2-2

"First of all, a lie detector test is worthless," Gaither said. "It isn't admissible in court. And, it is customary to have the accused persons take lie tests, if they are given at all, not the prosecuting witness." 29-12-2-3

Judge Fife expressed suprise at the brevity of the jury report. 29-12-2-4

"I believed that after nearly four weeks of investigation and 129 witnesses that I would surely have a more comprehensive report," he said. 29-12-2-5

Gaither said in disbelief, "The grand jury said they questioned 129 persons—and all of them are liars! Baloney." 29-12-2-6

Fife said, "It is apparent from reading the report that the grand jury did not rely heavily on the testimony of convicts, but the testimony of convicts did

not stop the prosecutor from proceeding in the police bribe cases, and the words of convicts did not prevent the sheriff from discharging Sgt. Charles Haine from his department." 29-12-3-4

Fife said the jury should either have totally believed McAdams' statement or totally rejected it. 29-12-3-2

Either that man's statement is entirely true or entirely false," Fife said. "That is a fundamental of law." 29-12-3-3

Memebers of the grand jury were Mrs. Constance Dietz, 38 years old, 3624 East 42d Street, foreman; Mrs. Dorothy McClure, 32, 5227 Washington Boulevard; Mrs. Dorothy J. Smith, 39, 6207 Breamore Road; Charles Chapman, 59, 3354 Hovey Street; Mrs. Ella Dickerson, 56, 924 Camp Street, and Mrs. Anne L. Taflinger, 46, 335 North Graham Avenue. 29-12-3-4

Meanwhile, Judge Rabb said he intends to begin an investigation in an attempt to learn whether or not secret grand jury information in regard to the jail probe was leaked before the grand jury presented its report to him and to Judge Fife. 29-12-3-5

Rabb said he intends to meet today with Judge Fife to plan a course of action, based on a radio news broadcast made Monday afternoon in which the commentator quoted "usually reliable sources" as saying there would be no indictments returned in the grand jury probe of the Marion County Jail." 29-12-3-6

Arthur L. Derringer, Indianapolis truck driver who had testified he was beaten by deputies in the jail, said he was "stunned with disbelief and dismay" when he received news of the jury report. 29-12-3-7

"Who do you go to for justice if you're beaten up?", Derringer asked. 29-12-3-8

Derringer, 46 years old, said he was "kicked and beaten" by five or six deputies in the basement of the old jail Jan. 10. He said he suffered injuries to his head and had black-and-blue heel prints on his stomach for several days after the alleged beating. 29-12-3-9

The jury also had no criticism of the sheriff's department in the death of Daner Crick, who died of pneumonia in Marion County General Hospital after having been left lying "sick, naked and dirty" for two days in the jail. 29-12-3-10

The jury said Crick died after he had been in Marion County General Hospital about seven hours. 29-12-3-11

"Medical testimony established the man had two recently fractured ribs," the report sated. "However, the medical testimony disclosed conclusively that the two rib fractures did not contribute to causing his death. The death of Crick, a man of advanced years who suffered from alcoholism was caused by two long standing conditions: acute bacterial pneumonia and chronic emphysema." 29-12-4-2

The jury did recommend legislation to provide that persons suspected of being mentally ill be kept in hospitals instead of county jails. 29-12-4-3

Dr. Risk said the ICLU has a "police action committee" which has been starting work on the general subject of brutality. He said the group has not yet gone into the allegations against the sheriff's department made in recent weeks. 29-12-4-4

"You'll hear more from us on this subject," Risk vowed.

Barton Hunter, chairman of the police action committee, criticized the way McAdams was questioned before and after the grand jury appearance. "This seems to me a disturbingly questionable procedure," he said. 29-12-4-5

William C. Erbecker, Indianapolis attorney, said he was studying the possibility of violation of the civil rights of both McAdams and Robert F. Squillan, a key figure in the sheriff's case against Sgt. Haine, who now is charged with writing a letter threatening the life of President Lyndon B. Johnson. 29-12-4-6

In order to initiate an investigation of civil rights

violation, a complaint must be given the FBI, which is required to send all information in the case to the Civil Rights Division of the Justice Department, according to Richard P. Stein, United States District Attorney. 29-12-4-7

After they sift it and if they decide a full investigation is warranted, they would tell the FBI here to make one. When a report of this investigation is completed, it goes back to the division, where a final determination is made whether complainer's rights have been violated, Stein said.

Mrs. Dietz said the grand jury composed the report without help from the prosecutor's office. 29-12-4-8

Sheriff Fields said, "I think that the grand jury should be highly commended for the long and arduous investigation it conducted." 29-12-5-1

"Every member of the public should in some measure express their appreciation to these citizens." 29-12-5-2

Pearcy stressed it was the jury's own report, saying: "I want to make it clear that the report was left 100 per cent in their care. The grand jury should be commended." 29-12-5-3

Former prosecutor Phillip L. Bayt said that from what he had read in newspapers and heard "it would appear that the grand jury would at least recommend that the sheriff's office immediately adopt corrective procedure to prevent such happenings in the future." 29-12-5-4

H. Dale Brown, Marion County Republican chairman, said "It would seem that further and continuing grand jury investigation is desirable." 29-12-5-5

Attorney Judson F. Haggerty, former Marion County Democratic Chairman, said he thought Robert H. Fields was "one of our best sheriffs." Haggerty added, "There may have been some neglect but I believe it has been kept to a minimum." 29-12-5-6

Another of the front-page articles in Complaint Exhibit 29 carried a three-column headline, "Grand Jury's Findings In Jail Brutality Probe," and reads as folows:

> This is the text of the special report made yesterday by the Marion County Grand Jury to Judges Saul I. Rabb of Marion County Criminal Court, Division 2, and Eugene M. Fife Jr., Marion County Criminal Court, Division 1:
>
> "The Marion County Grand Jury desires to return herewith its Special Report:
>
> "In an exhaustive study by the Marion County Grand Jury of conditions at the Marion County Jail, we have found no evidence to substantiate the allegations concerning brutality by the Marion County Sheriff's deputies.
>
> "After listening to almost four weeks of testimony of truths, half-truths, and in many instances untruths, it became evident that an intelligent individual, with a knowledge of the evidence we have heard, would reject these allegations of brutality. Unfortunately, the public has not had access to this needed information. There may have been some isolated instances where a deputy's judgment as to the reasonable force required under the circumstances might be questioned. However, we have not heard evidence of a single incident where in our opinion a deputy clearly used unreasonable force, with the exception of an instance when tear gas was used on an individual prisoner. We cannot condone the use of tear gas to quell one unruly individual, we feel that such a drastic measure should be used only in the event of a riot or major disturbance.
>
> "We listened carefully and patiently to a total of one hundred twenty-nine (129) witnesses and we must conclude that the charges of brutality at the Marion County Jail are wholly unfounded.
>
> "The instances of violence we have heard have involved trouble deputies have had booking in a prisoner who was under the influence of alcohol and belligerent,

controlling prisoners who became unruly and violent in cellblocks, struggling with prisoners who for discipline reasons were placed in the old jail's maximum security room, and on one occasion, when the deputies and the riot squad of the Indianapolis Police Department were putting down a large scale riot.

"We have heard testimony of some persons who can be described as being among the worst enemies of society, who have been convicted of crimes of violence and viciousness, who have stated their complaints about the manner in which the deputy sheriffs controlled them in the jail. We find we have no criticism whatever of the judgment of the deputy sheriffs as to the necessary and reasonable force required to handle and control these individuals.

"In a published statement by Charles P. McAdams dated Oct. 22, 1965, an accusation was leveled at a deputy sheriff who was alleged to have brutally beaten an inmate, Elmer Reagan. Testimony of Mr. McAdams, verified by a lie detector test conducted by an Indiana State Police expert, along with the testimony of a great many other witnesses before the Grand Jury, have clearly shown the allegations contained in his original statement of Oct. 22, 1965, are completely false.

"The grand jury seriously considered that an indictment of perjury be placed against Mr. McAdams based on his notarized statement of Oct. 22, 1965. However, the evidence disclosed that Mr. McAdams had not been placed under oath, nor did he swear to the veracity of the statement and its contents. The Notary attested to the signature of Mr. McAdams only. It was on the basis of this legality that an indictment of perjury is unwarranted.

"During the many weeks of our extensive investigation, indisputable evidence has been heard which disproves the claims of brutality committed by deputy sheriffs and the mortal beating of a prisoner by a deputy.

"We inquired also into the death of one Daner

Crick, alias Dean Craig, who was removed from the Marion County Jail about 6:00 p.m. July 13, 1965, and taken to General Hospital. His death occurred after he had been at the hospital approximately seven hours. Medical testimony established the man had two recently fractured ribs. However, the medical testimony disclosed conclusively that the two rib fractures did not contribute to causing his death. The death of Crick, a man of advanced years who suffered from alcoholism, was caused by two long standing conditions: acute bacterial pneumonia and chronic emphysema.

"If the family of an individual believed to be mentally ill will not seek help for him, it often becomes necessary, for a criminal offense, usually the charge of Disorderly Person, to be placed against the individual in order to bring him into custody for a subsequent examination at General Hospital.

"Indiana has no more modern procedures than this for the detention and examination of those believed to be suffering from mental illness. The criminal charge of Disorderly Person is simply the most convenient means the authorities, in almost all instances the Indianapolis Police Department, can find in the law for taking such individuals into custody.

"The Marion County Sheriff's Department is required to confine such individuals at the Marion County Jail for the reason that they are under a criminal charge and have not yet been evaluated to be in fact mentally ill.

"General Hospital has very limited facilities for mentally ill in-patients and it is also understaffed with the psychiatrists, psychologists, social workers and other personnel required for such patients. The beds available for such patients are always filled and vacancies do not occur as frequently as desirable because institutions such as Indiana Central State have problems also with limited facilities and personnel.

"As a consequence, individuals believed to be mentally ill who are being held by the Marion County Sheriff's Department are often confined to the jail

for extended periods of time. If the Sheriff's Department finds itself having custody of a pre-mental prisoner who is even violent and raging and further finds that General Hospital has no space for the prisoner, there is no alternative for the Sheriff's Department but to return the pre-mental prisoner to the jail.

"The old Marion County Jail, which was vacated only a couple of months ago, was originally built to accommodate 125 prisoners. The Marion County Sheriff's Department, however, has had to house as many as 700 prisoners in that building. The building was ancient and the facilities, as reported by many Marion County Grand Jurors in past years were deplorable.

"There were no special cells or facilities of any kind for mentally ill prisoners. These prisoners, by necessity, had to be kept in cellblocks with hardened criminals and the whole range of the prisoner population.

"Most of the cellblocks were in full view of visitors to the jail and some prisoners, such as Reagan and Crick, could not be kept in these cellblocks. These two men would remove their clothing and lay on the floor for long periods of time. Reagan developed pressure sores and abrasions and would remove bandage dressings and would rub his excrement into his sores and abrasions. Other prisoners suspected of being mentally ill would expose their genital organs and urinate through the bars in full view of visitors. Prisoners of this type were kept in what was known as the basement cage.

"Sheriff's deputies are not men trained and experienced in the care and handling of mentally ill persons. Their problems in the management of the old jail were innumerable and we find that under all the circumstances their handling of such mentally ill patients was competent, and we feel they should be commended for their efforts under such impossible conditions.

"We feel very strongly that persons suspected of

being mentally ill should be kept in a hospital and not in a county jail. However, in order to accomplish this it appears that new legislation is required. Such legislation must be the result of study and proposals by medical and legal experts.

"The new Marion County Jail, which is far from completion and being operated at half its ultimate facilities, is already overcrowded.

"In view of the pre-planning along with the able administration by the Sheriff and his department, conditions in the old jail are non-existent in the new one.

"The construction of tile and steel require a minimum of maintenance for ultimate cleanliness. The laundry and kitchen facilities are of the very latest for institutional use.

"More than adequate food is prepared in an immaculate, well equipped kitchen and each inmate receives his partitioned tray of hot food at his cellblock. Menus are planned with the guidance of the United States Bureau of Prisons Manual.

"Sick call cards are filled out by those inmates who have a physical complaint and wish to see a doctor. These cards are gathered and given to the medical assistant who evaluates the prisoners' complaints prior to the doctor's examination.

"If the physical condition warrants treatment, it is given and followed by a prescribed medication to be administered when required. We find no lack of medical attention. In addition, Sheriff Fields has inaugurated a plan whereby two externs will be added to the jail's medical staff and will room at the jail, thus providing an expanded program to care for the physical needs of the prisoners.

"It is with the knowledge of the testimony of the 129 witnesses that we, the Marion County Grand Jury, are able to exonerate the Sheriff's Department of the alleged charges of brutality."

The third front page article in Complaint Exhibit 29 carried a four column headline, "4 Judges Plan For Court Doctor," and reads as follows:

"Judges of the four Municipal Courts of Marion County yesterday made plans to have a court doctor screen prisoners.

"Acting despite exoneration of the Marion County Sheriff's Department by the grand jury of alleged brutality charges, the judges held their first meeting yesterday and plan to meet again twice today.

"They will try to reduce the number of mental patients and alcoholics in jail and provide a new system for investigation of alleged brutality in the county jail and city lockup.

"Judge Ernie S. Burke of Municipal Court, Room 3, the presiding judge, said one of the first steps the judges will take is to hire a doctor or psychiatrist by Dec. 15.

"Burke said that at the beginning the courts want a doctor to spend three half days a week screening prisoners. A sum of $10,000 was budgeted in August for the courts to hire a doctor but so far no one has been hired.

"Burke said that by having a court-appointed doctor, persons requiring immediate medical or psychiatric help could be sent at once to the hospital on an emergency basis.

"'By screening out those who do not need immediate help,' Burke said, 'we would reduce the large number of persons now being sent to the hospital for mental examinations and who are sent from the hospital to the jail because there isn't enough room for them.'

"The other judges are William T. Sharp, John C. Christ and Harry F. Zaklan.

"The judges also are considering long-range plans for an alcoholic treatment center in which persons charged with drunkenness could be placed."

Alcoholics sent to a treatment or rehabilitation center would be under sentence of the court but would be examined at a hearing instead of in court. Burke said the arrangement would be far cheaper for the city and county.

In their meetings today, the judges are expected to lay the groundwork for new policies in the investigation of alleged brutality in the jail and lockup and review the procedure for jailing and caring for all prisoners in both places.

The front page editorial in Complaint Exhibit 29 reads as follows, including headline:

AN EDITORIAL

Grand Jury Report.

Starting on the front page of today's editions of The Star is reported, in its entirety, the special report of the Marion County Grand Jury concerning conditions at the Marion County Jail. 29-1-7-1

This report concludes with an exoneration of "the Sheriff's Department of the alleged charges of brutality." 29-1-7-2

Those charges of brutality were furnished, in large part, to the Grand Jury by reporters of this newspaper following lengthy investigation. The Star made the information available to the Grand Jury in the belief that such information should be considered by an impartial body and a determination made of the validity of the allegations. 29-1-7-3

This publication of the report of the Grand Jury and the public allegations of the many witnesses it heard is part of the responsibility of a newspaper. That responsibility also includes the reporting to the public of charges against elected or appointed officials, it includes the reporting of replies by those officials and it includes the reporting of the judgment of legally constituted juries and judges. 29-1-7-4

This reporting The Star has done to the best of its ability. It will continue to do such reporting to the best of its ability. 29-1-7-5

Exhibit 30 (to Complaint Paragraph 30).

Complaint Exhibit 30 (Tr. 84-85; 264f; SR 74-75; SE 211) is a copy of two front page articles published on November 25, 1965. One of these articles carried a large 8-column headline, "Grand Jury Asks To Resign", a three-column sub headline, "Protests Criticism; Phone Threats Bared", and reads as follows:

All six members of the Marion County grand jury petitioned to be dismissed yesterday because of "attacks upon our integrity and character." 30-1-6-1

The jurors referred to criticism from Judge Eugene M. Fife Jr. of Criminal Court, Division 1. 30-1-6-2

Judge Fife had termed the jury's report on alleged brutality at the Marion County Jail a "whitewash." 30-1-6-3

Several jury members reported receiving threatening telephone calls Tuesday night and yesterday, but they said the calls had nothing to do with their wanting to resign. They dismissed the threats as "crank calls." 30-1-6-4

Sheriff Robert H. Fields, however, assigned 18 deputies to provide around-the-clock protection for the jurors. A deputy was assigned to each juror's home about 4:30 p.m. 30-1-6-5

Fife and Judge Saul I. Rabb, of Criminal Court, Division 2, delayed consideration of the dismissal petition until Monday. 30-1-6-6

The jury is scheduled to serve until Dec. 31. The present jury heard evidence on a securities scandal, a bribery case and a number of murders without yet reporting on them. 30-1-6-7

All those investigations would be worthless if the jury were to be discharged, Prosecutor Noble R. Pearcy said. 30-1-6-8

Meanwhile, reported "leaks" out of the grand jury were being investigated. 30-1-6-9

Rabb and Fife said they would start Monday their own investigation of how an Indianapolis radio station was able to report Monday that it had learned from "usually reliable sources" that there would be no

No deputies were indicted in the report, but there indictments in the report. 30-1-6-10
was an indictment charging a former jail inmate with second degree murder. 30-1-6-11

After four weeks of investigation of alleged brutality at the jail and hearing 129 witnesses, the jury reported it found "no evidence to substantiate the allegations." 30-1-6-12

The jury's petition stated, "We respectfully ask permission to be dismissed from the Marion County grand jury. We feel our ability to function as a grand jury has been questioned after honestly relating our unbiased findings. 30-1-6-13

We have further suffered humiliation and been ignored in our attempts to represent Marion County. We feel the entire principle of the jury has been hampered, in fact rendered useless by attacks upon our integrity and character. 30-1-6-14

Several officials besides Fife, including chief coroner's investigator Bethel E. Gaither, criticized the jury report. 30-1-6-15

The jury foreman, Mrs. Constance A. Dietz, and Charles Chapman, the only male juror, presented the petition to Judge Rabb only and sent a copy to Judge Fife, they said. Rabb later conferred with Fife. 30-16-5-1

The other four jurors are Mrs. Dorothy J. Smith, Mrs. Dorothy McClure, Mrs. Ella Dickerson and Mrs. Anne L. Taflinger. 30-16-5-2

Earlier in the day, Mrs. Dietz had given Rabb a handwritten statement, signed by all jurors, asking his presence in court so that they could "inquire concerning their present status in view of the recent

statements made by the judge of the other division of Criminal Court (Fife), casting direct doubt upon their integrity and honesty as citizens and jurors sworn to uphold the laws. 30-16-5-3

"We respectfully request," the statement continued, "that Judge Eugene Fife not be present or invited to attend said open court inquiry, for the reason he has disqualified himself from further objective help to the citizens on the grand jury . . ." 30-16-5-4

Rabb refused to hold a court inquiry by himself, however. He said that although he is currently the presiding judge of the court, grand jury matters must be heard by both judges, by law. 30-16-5-5

Pearey and his chief trial deputy, Leroy K. New, accompanied Mrs. Dietz into Rabb's office when the first hand written statement was presented. 30-16-5-6

At a news conference later, Pearey said he could not blame the jury for wanting to quit, not only because of Fife's remarks but also because of a stormy session with an earlier witness, Indianapolis industrialist Miklos Sperling. Sperling was reported to have cursed and thrown things at the jury. 30-16-5-7

Pearey said Fife commended the jury for its investigation when it brought in its report Tuesday. Fife's later criticism, Pearey said, was "a betrayal to the citizens of Marion County." Pearey said grand jurors are selected to represent the citizenry in investigation of crime, and he said Fife was "attacking the integrity and character of every citizen of Marion County." 30-16-5-8

Pearey said criticism of the grand jury was inappropriate because "it was their investigation; they heard the witnesses." Questioning of the witnesses was secret, as required by law. 30-16-5-9

Rabb said Judge Fife was within his rights to comment on the contents of the jury's report. 30-16-5-10

"I could not comment because the grand jury returns its indictments into this court until Jan. 2, and I might have to try the cases," he said.

"But Judge Fife should have commented if he wanted to," Rabb said; "it was his right to do so." 30-16-5-11

When asked by radio and television reporters to comment on his criticism of the grand jury report, Fife said, "My comments were reported fairly and accurately in The Indianapolis Star Wednesday morning. My feelings have not changed and I have no other comments to make." 30-16-5-12

Threatening phone calls to jurors included one made by a woman to Chapman's wife. Chapman said the woman told his wife "if I didn't tell the truth today, I was going to be shot." He said he thought it was a "crank call." 30-16-5-13

A woman juror said a caller threatened to burn her house. Pearcy said police have the house under surveillance. 30-16-5-14

The second article in Complaint Exhibit 30 carried a two-column headline, "6 Judges Plan Quick Brutality Check In Future," and reads as follows:

A plan to provide immediate investigation of brutality complaints in the Marion County Jail or city lockup was approved by six judges yesterday. 30-1-7-3

The judges also said they will ask the chief of police or sheriff to submit written reports to their courts in any case where a policeman or deputy uses force on a prisoner. 30-1-7-4

The plan was spearheaded by Judge Eugene M. Fife Jr. of Marion County Criminal Court, Division 1, and Judge Saul I. Rabb of Criminal Court, Division 2. 30-1-7-5

The four Municipal Court judges—Ernie S. Burke, William T. Sharp, John C. Christ and Harry F. Zaklan—supported it. 30-1-7-6

The plan was proposed following the Marion County Grand Jury investigation of alleged brutality in the county jail. The jury exonerated the sheriff's department, but Fife called the panel's report a "whitewash." 30-1-7-7

Rabb said it has been his policy to ask defendants in his court who have been injured about how they were treated in jail. 30-1-7-8

"I believe it is a good move to ask for reports on all incidents where force is used on prisoners of my court," he said. 30-1-7-9

"The sheriff is just the custodian of my prisoners," Rabb added. "As the judge I have the right to make full inquiry about injuries and I will do so." 30-1-7-10

"This system catches problems as they occur," he said. 30-1-7-11

The judges agreed that when brutality is charged, the case will be referred to the prosecutor's office or the Indianapolis Board of Public Safety, or both. 30-1-7-12

Fife said he believed the policy would prove workable and would be a great aid to police and judges in airing brutality claims. 30-1-8-9

Presently, police or sheriff's detectives generally investigate brutality charges. 30-1-8-4

Christ and Sharp said they believed that any time a policeman or deputy is required to use force on a prisoner, the prisoner should be charged with resisting arrest. 30-1-8-5

"It would insure that we would be able to get to the bottom of each case when the defendant appears in court to answer the resisting arrest charge," Christ said. 30-16-6-1

"And the filing of the charge would allow us to determine whether necessary force was used to restore control," Sharp added, "because both the policeman and the defendant will have to appear in court." 30-16-6-2

Judge Christ said he believed more cases of alleged brutality and mistreatment would be disclosed if the judges could agree on issuing an order that all correspondence to judges or public officials from jail inmates be completely uncensored. 30-16-6-3

Governor Roger D. Branigin last week announced that mail to him from inmates of the state penal institutions was to be uncensored; although Branigin's action did not stem from the investigation of the Marion County Jail. 30-16-7-1

Christ said he would offer his suggestion to the other Municipal Court judges next week. 30-16-7-1

Judge Burke, presiding Municipal Court judge, said he also believes the plan will be an aid to police. 30-16-7-2

"If they know we are going to inquire about injuries, they will have reports on how the injuries occurred," he said. 30-16-7-3

Burke said that by referring brutality claims to the prosecutor or safety board "the burden of the police department investigating itself is eliminated." 30-16-7-4

The four municipal judges said they plan to meet again next week to discuss hiring a doctor to examine sick, injured, alcoholic or mentally ill 30-16-7-5 prisoners before they appear in court, review the procedure for jailing and caring for prisoners in the county jail and city lockup, and press plans to keep mental patients and alcoholics out of jail. 30-16-8-1

Exhibit 31 (to Complaint, Paragraph 31).

Complaint Exhibit 31 (Tr. 86-87; 5279; SR 76-77; SE 881) is a copy of two front-page articles published on November 26, 1965. One of the articles carried a small 8-column headline, "Fife Charges Pearey 'Steered' Jury," a one-column sub-headline, "'Criticizes Method In Jail Probe," and reads as follows:

Judge Eugene M. Fife Jr. of Marion Criminal Court, Division 1, yesterday placed the blame on Prosecutor Noble R. Pearey's office for what Fife termed a "whitewash" of charges of brutality at the Marion County Jail. 31-1-1-1

Fife charged that the prosecutor's office steered the

grand jury to the conclusion that there was no evidence of brutality at the jail. 31-1-1-2

"I have no criticism in any way of the grand jury," Judge Fife said. "The jurors were only the victims of the whitewash manipulation staged by the prosecutor's office." 31-1-1-3

Judge Fife, along with Judge Saul I. Rabb, Criminal Court, Division 2, is considering a request made by the six jurors Wednesday that they be permitted to resign because of "attacks on our integrity and character." 31-1-1-4

Official concern was voiced over the fact that resignation of the grand jury would undo all of the work done in its investigation of key cases, particularly securities operations. 31-1-1-5

Pearcy said he did not know exactly how many cases are pending before the grand jurors, but noted that the investigation of securities dealings still is under way and said, "The resignation of the grand jury would pose a very serious problem to us." 31-1-1-6

The prosecutor's office is in the process of obtaining the records of the Investment Corporation of America, the firm formerly headed by Robert S. Chappell, Pearcy said. "I was very surprised at the grand jury's request," he said. 31-1-1-7

The grand jury has heard from about 30 witnesses, including Secretary of State John D. Bottorff, in the securities probe. 31-1-1-8

Judge Fife, Bethel E. Gaither, chief coroner's investigator, and several other persons criticized the jury report delivered Tuesday which exonerated the Marion County Sheriff's Department of any guilt in alleged brutality at the county jail. 31-1-1-9

Fife said:

"I have been fighting the idea for several terms that the grand jury belongs to the prosecutor's office. It only heard what the prosecutor wanted heard and saw what the prosecutor wanted seen and deliberated what the prosecutor wanted deliberated. 31-14-6-1

"It is just an adjunct of the prosecutor's office," Judge Fife said, adding, "and then the prosecutor's office has the gall to say it had nothing to do with the writing of the report." 31-14-6-2

Prosecutor Pearcy countered Judge Fife's statement by saying: "To call this grand jury report a 'whitewash' is a complete falsehood. And the grand jury is not mine, it is Judge Fife's and Judge Rabb's. 31-14-6-3

"They chose the jurors; they questioned them before they were impaneled. And then to make the statements Judge Fife did about the report, after he congratulated the jurors from the bench for their work, is an injustice to the jurors," Pearcy said. 31-14-6-4

"The grand jurors can interrogate any witness they wish; that was a grand jury investigation and report, not mine," he said. "If Judge Fife cares to say different, that's his business. But I criticize his position very, very strongly." 31-14-6-5

The only indictment returned by the grand jurors charged William A. Brown with second-degree murder in the death of Elmer L. Reagan, 50 years old, 404 Massachusetts Avenue. 31-14-6-6

Sheriff's deputies said Brown, who was reported chained to his jail cell bars July 14, beat Reagan that day. Reagan died Aug. 7 in Marion County General Hospital from pneumonia brought on by the beating. 31-14-6-7

The indictment was returned after the jurors received a signed, notarized statement from Charles P. McAdams, that he saw a deputy beat Reagan twice that day. 31-14-6-8

McAdams repudiated his statement after he was questioned twice by the Sheriff's department, once before and once after his grand jury appearance. McAdams now is a "trusty"—a privileged prisoner—at the jail. 31-14-7-1

Judge Rabb said he will confer with Judge Fife Monday and reach a decision on the request. 31-14-7-2

"There are a lot of things to be considered," Rabb said, "the number of persons in jail awaiting trial, the number of cases the jury already has heard, the possibility of charging some of these people by affidavit and bringing them to trial." 31-14-7-3

Judge Rabb has been known for his desire to guarantee suspects a speedy trial. A sign in his court quotes the statement, "Justice delayed is justice denied." 31-14-7-4

Judge Rabb said he will talk with Prosecutor Pearcy about those matters before Monday's conference. 31-14-8-1

"If this had happened in October, the decision would have been easier," Judge Rabb said. "There would have been time for a new jury to hear the cases before the end of its term. Now we have only a month." 31-14-8-2

When submitting their request to resign, several jurors reported having received threatening telephone calls. Sheriff Robert A. Fields put the homes of all the jurors under an around-the-clock surveillance by his deputies and said yesterday that there had been no incidents. 31-14-8-3

The sheriff said he felt the alleged threats were "due to stories in The Indianapolis Star" and added that the deputies would continue the watch "as long as The Star continues harassment of the jurors." 31-14-8-4

The second article in Complaint Exhibit 31 carried a four-column headline, "Probe On Squillan's Rights Sought," and reads as follows:

A Federal investigation will be sought to determine if a Marion County deputy sheriff violated the rights of Robert F. Squillan, Squillan's attorney said yesterday. 31-1-1-11

The lawyer, William C. Erbecker of Indianapolis, said he will submit the request in writing today or Monday to United States Attorney Richard P. Stein here and also to Federal officials in Washington, D. C. 31-1-1-12

The request for a probe will be based on attempts to obtain evidence in the bribery charge hearings of former Sheriff's Sgt. Charles W. Haine, Erbecker said. 31-1-1-13

Squillan of Brooklyn, N. Y., charged in a notarized statement that Sheriff's Sgt. Felson Bowman repeatedly threatened him with imprisonment for bribery and for parole violation in order to get him to give evidence against Haine. 31-1-2-1

Erbecker, who said he has the written permission of Squillan to release the statement, said he hopes to use the results of the civil rights probe to show that the pressure placed on Squillan caused temporary derangement of Squillan's mind. 31-1-2-2

Marion County Prosecutor Noble R. Pearcy said yesterday that he may leave during the weekend for New York or Washington. Although he would admit only that the trip would be on "prosecutor's business," it was believed the "business" concerned the Squillan case, which is pending before the grand jury. 31-1-2-3

After the questionings by Bowman in New York, Squillan fled the country, went to Frankfurt, Bonn and West Berlin, Germany. He then wrote a letter in which he threatened the life of President Lyndon B. Johnson and sent it to the FBI. 31-1-3-1

He went to the American Consulate in Rome, Italy, and was arrested by the FBI for writing the letter. He will be transferred from the Federal Detention Headquarters in New York to Washington to stand trial for the threat. 31-1-3-2

Calling jail conditions here "miserable," Squillan added in the notarized statement, "I knew the Federal government would arrest me for this letter and this is

what I wanted for I did not want to go back to Indiana." 31-1-3-3

Erbecker said that if Federal authorities determine that Squillan's rights under the 1965 Civil Rights Law were violated, action against the deputy would come through Federal grand juries in Indianapolis, New York or Washington. 31-1-3-4

Bowman was the only person named by Squillan. 31-1-4-1

Sgt. Haine was accused by the Sheriff's Department of taking $600 from Squillan and $200 from Squillan's mother, Mrs. Florence Dagrossa, to obtain a suspended 1-to-10-year sentence handed down by Judge Eugene M. Fife Jr. in Marion Criminal Court, Division 1, last March.[3] Squillan had been found guilty of committing robbery here. 31-1-4-2

Squillan said he signed a statement against Haine prepared by Sgt. Bowman because he was "afraid of losing everything I had worked hard for after my return" to New York. 31-1-4-3

Haine was discharged by the Sheriff's Merit Board Oct. 26 after he was found guilty by the board of taking the money from Mrs. Dagrossa and of numerous other departmental infractions. 31-1-4-4

Exhibit 32 (to Complaint Paragraph 32).

Complaint Exhibit 32 (Tr. 88; 5280; SR 78; SE 886) is a copy of a front-page article published on November 27, 1965, which carried a five-column headline, "Jury Wrote Jail Report, Foreman Says," and reads as follows:

The foreman of the Marion County Grand Jury, Mrs. Constance A. Dietz, declared at a press conference yesterday that the jury's recent report on the Marion County jail was written by the jury without help from the prosecutor. 32-1-1-1

Judge Eugene M. Fife Jr. of Criminal Court, Division 1, had charged that Prosecutor Noble R. Pearcy

and his staff influenced the jury to return the report which exonerated sheriff's deputies of charges of brutality. 32-1-2-1

Mrs. Dietz read the following statement to newsmen at her home, 3624 East 42d Street: 32-1-2-2.

"We of the Marion County Grand Jury wish to make the following statement: 32-1-2-3

"In reference to statements published concerning the question of authorship of the grand jury report, we have this to state: Each member of the jury first organized his own rough report. These thoughts and extensive notes were then incorporated into one finished report. We still have, in our possession, these rough notes. It should be noted that this report was agreed upon and signed by all jurors. We were complimented in open court on our diligent efforts. We understand that this is the first report written by a grand jury and not the prosecutor's deputy, with the exception of one special report written previously by this same jury. 32-1-2-4

"We have retained in our possession throughout the entire investigation, all names furnished to us by both criminal courts, representatives of The Indianapolis Star, and the Sheriff's Department. Also in our possession are letters from former inmates or members of their families. The majority of these notes, memorandum, and letters were furnished by the criminal courts and representatives of The Indianapolis Star. We interrogated everyone that we felt could shed any light on this investigation, including doctors, ministers and priests. 32-1-3-1

"The grand jury, and only the grand jury, had the evidence to evaluate. We feel the criticism was unfair and unjust, and was near libelous to us as citizens." 32-1-4-1

Fife had said the grand jury has been "just an adjunct of the prosecutor's office." 32-1-4-2

Fife earlier had termed the report a "whitewash" of the charges against the deputies of Sheriff Robert

H. Fields, who is a close personal and political friend of Prosecutor Pearcy. 32-1-5-1

Two other members of the jury, Mrs. Dorothy McClure and Mrs. Dorthy J. Smith, were present at the press conference; the other three jurors—Charles Chapman, Mrs. Anne L. Taffinger and Mrs. Ella Dickerson—were not. The three present said that Chapman was "wholeheartedly behind" yesterday's statement, that Mrs. Taffinger is out of town on a holiday trip, and that they were unable to contact Mrs. Dickerson because her telephone line was busy. 32-15-5-1

Charges against deputies included a statement by an inmate that he saw a deputy beat another jail inmate who was hospitalized shortly afterward and later died. The inmate who gave the statement, however, repudiated it later. The grand jury indicted another inmate, William A. Brown, on a charge of second degree murder in the death. 32-15-5-2

Other charges included one that another inmate died of pneumonia after lying sick and untended by deputies in the jail for two days, and statements by a number of inmates and former inmates that they either suffered beatings or saw other prisoners beaten by deputies in the jail. 32-15-5-3

The jury's report Tuesday included a statement that it had found "no evidence to substantiate the allegations." 32-15-5-4

Asked yesterday whether this meant that all the accusers had changed their stories inside the grand jury room, Mrs. Dietz said she could not answer the question because grand jury testimony is secret, by law. 32-15-5-5

"The public will have to decide for themselves," she said, "or take our word for it." 32-15-5-6

The jury report did acknowledge evidence "of an instance when tear gas was used on an individual prisoner." 32-15-5-7

The report also criticized the age-old practice of keeping mental patients in the jail. 32-15-6-1

The jury questioned 129 witnesses in its four-week investigation. 32-15-6-2

Mrs. Dietz said that letters and calls to her and other jurors in the last two days have run "almost 10 to 1" in praise of them for the report. 32-15-6-3

Exhibit 33 (to Complaint Paragraph 33).

Complaint Exhibit 33 (Tr. 89; 5281; SR 79; SE 888) copy of an article and an editorial published on Sunday, November 28, 1965, in the second or editorial section.

The article carried a four-column headline, "Fife, Rabb Decide Tomorrow On Jury's Request To Resign," and reads as follows:

Marion Criminal Court Judges Eugene M. Fife Jr., Division 1, and Saul I. Rabb, Division 2, are scheduled to decide late tomorrow whether to grant the request of the Marion County Grand jury that it be permitted to resign. 33-1-5-1

Meanwhile, more that 30 prisoners in Marion County Jail in various cases face possible formal charging by prosecutor's affidavit instead of indictment if the grand jury is allowed to quit. 33-1-5-2

Among major cases under consideration by the grand jury are two which would have to be reheard because they involve homicides.

The two are: 33-1-6-2

1. The Sylvia Likens murder case—Mrs. Gertrude Wright, 37 years old, Richard Dean Hobbs, 14, and four other juveniles are held in the torture death of the 16-year-old Miss Likens in Mrs. Wright's Eastside home Oct. 26. 33-1-6-3

2. Patrolman Thomas R. Graham murder case—Nathaniel H. Harris, 29, is held in the shooting death of Patrolman Graham in the basement of the City-County Building Oct. 12. 33-1-7-2

The grand jury also has before it two investigations which, if dropped, would have to be completely reheard.

It is considered highly unlikely that these cases, in which no arrests have been made, would be handled by prosecutor's affidavit. The cases: 33-1-7-3

1. The Securities Probe—More than 30 witnesses including Secretary of State John Bottorff, have been heard in regard to allegations of misconduct by public officials in dealings with investment brokers. 33-1-7-4

2. The Charles W. Haine Case—Former Sheriff's Sgt. Haine was found guilty of taking bribes by the Sheriff's Merit Board Oct. 26. 33-1-7-5

A report that the jury may withdraw its request to resign—a request made after the jurors were criticized for their report exonerating the Sheriff's Department of any guilt in charges of brutality at the jail—was flatly denied yesterday by jury foreman, Mrs. Constance Dietz. 33-1-7-6

"My concern in considering the jurors' request is those prisoners," Judge Rabb said yesterday. He said he will confer with Prosecutor Noble R. Pearcy or his representative tomorrow on possibility of bringing some of the prisoners to trial by prosecutor's affidavit if the jury resigns. 33-1-7-7

Pearcy said last night, "We will do all we can to expedite the trials of some of the prisoners, charging them by affidavit when we can" if the jury is lost. 33-1-7-8

Meanwhile, a request for a Federal civil rights investigation of the actions of a Marion County Sheriff's deputy in his attempt to obtain evidence from a former jail prisoner is to be mailed this afternoon by the former prisoner's attorney, William C. Erbecker. 33-1-8-1

Erbecker said the probe is being requested on the behalf of Robert F. Squillan of Brooklyn, N. Y., who charged in a notarized statement that Sheriff's Sgt. Felson Bowman threatened him with imprisonment for bribery and for parole violation unless he gave evidence in the case of Sgt. Haine. 33-1-8-2

Haine was charged by the sheriff of taking bribes

and of numerous other department rule violations. He was found guilty by the Merit Board of taking $600 from Squillan and $200 from Squillan's mother, Mrs. Florence Dagrossa, along with other violations. 33-1-8-3

After the alleged questioning by Bowman, Squillan fled to Europe where he wrote a letter threatening President Lyndon B. Johnson and sent it to the FBI. He subsequently was arrested and now faces trial for the threat. 33-1-8-4

In his statement, Squillan said he knew he would be arrested for the threat and that he wanted the arrest because, "I didn't want to go back to Indiana." 33-1-8-5

Erbecker said that if the investigation shows Squillan's rights were violated, he will use the information in Squillan's trial for making the threat to help show that Squillan was not in his right mind when he wrote the letter. 33-1-8-6

Any action against Bowman would have to be taken by a Federal grand jury, Erbecker said. 33-1-8-7

The Marion County Grand Jury's report on the jail was termed a "whitewash" by Judge Fife, other public officials and some local leaders. Judge Fife said he did not blame the jurors, calling them "the victims of a whitewash manipulation staged by the prosecutor's office." 33-1-8-8

The jurors issued a statement Friday saying they wrote the report without any direction by prosecutor's office. 33-1-8-9

The editorial in Complaint Exhibit 33 reads as follows, including headline:

AN EXCELLENT PLAN

The plan approved by six judges, calling for immediate investigation of brutality complaints in the Marion County Jail or city lockup, deserves the fullest support of city and county officials.

Under the plan agreed upon by the judges as soon as a brutality charge is made, the case will be referred at once to the prosecutor's office, the Indianapolis Board of Public Safety, or both.

At present, such investigations usually are made by police or sheriff's detectives. This, unfortunately, places the probe in the hands of individuals who might feel it in their interest to minimize or cover up the charges in behalf of themselves or cronies in their department.

The plan removes the risk that this could happen.

It has stated support of the County's two Criminal Court and four Municipal Court judges.

The judges also said they will ask the police chief or sheriff to make a written report to their courts whenever a policeman or deputy has to use force on a prisoner.

This plan is an excellent one. It also promises to eliminate the chance that brutality or other irregularities in the handling of prisoners might "accidentally get lost in the shuffle."

We commend the judges for evolving this solution to a serious problem. We hope that it is put into effect at once.

Exhibit 34 (to Complaint Paragraph 34).

Complaint Exhibit 34 (Tr. 90; 5282; SR 80; SE 892) is a copy of a front-page article published on November 19, 1965, which carried a one-column headline, "Jury Dismissal Decision Due This Morning," and reads as follows:

A decision on the Marion County Grand Jury's request that it be dismissed will be made at a closed session between Criminal Court Judges Eugene M. Fife Jr., Division 1, and Saul I. Rabb, Division 2, at 11 a.m. today, Judge Fife said last night. 34-1:5-1

The judge also said he will hold a press conference after the decision is announced "to answer publicly

the allegations made against me by the prosecutor's office after I termed the Grand Jury's report on brutality charges at the jail an obvious whitewash." 34-1-5-2

Judge Fife said the press conference will be held about noon. 34-1-5-3

The grand jurors asked to be dismissed Wednesday, calling criticism of their actions "attack on our integrity and character." The jury completely exonerated the sheriff's department of any guilt in the brutality charges. 34-1-5-4

Judge Fife said he did not blame the jurors, calling them "the victims of a whitewash manipulation staged by the prosecutor's office." 34-1-5-5

Pearcy replied Thursday, saying: "To call this grand jury report a 'whitewash' is a complete falsehood. If Judge Fife wants to think different, that's his business. But I criticize his stand very, very strongly." 34-1-5-6

Pearcy will not be in Indianapolis today. He and his grand jury deputy James E. Bath went to New York City yesterday on secret business. 34-1-5-7

Although Pearcy would say only that the trip was on "prosecutor's business," it was believed the trip concerned the case of Robert F. Squillan. 34-1-5-8

Squillan gave a statement that he gave money to former Sheriff's Sgt. Charles W. Haine. Haine was dismissed by the Sheriff's Merit Board Oct. 26 after being found guilty of taking bribes from Squillan, and his mother and of other departmental rule infractions. The case now is before the grand jury. 34-14-4-1

Squillan said in a notarized statement to his attorney, William C. Erbecker, that he was badgered by Sheriff's Sgt. Felson Bowman and that Bowman threatened to have him returned to jail for bribery and parole violations if he did not give evidence against Haine. 34-14-5-1

Erbecker, who said he has the written permission of Squillan to release any information on the case, yesterday sent a request for a Federal investigation to determine if Squillan's civil rights were violated by Bowman. 34-14-5-2

Exhibit 35 (to Complaint Paragraph 35).

Complaint Exhibit 35 (Tr. 91; 5283; SR 81; SE 894) is a copy of a front-page article published on November 30, 1965, which carried a large 8-column headline, "Jury Told To Stay On Job," a one-column sub-headline, "Pearcy Assailed By Fife," and reads as follows:

The two Marion Criminal Court judges yesterday refused to allow the grand jury to resign and ordered jurors back to work. 35-1-8-1

Immediately after the judges' action, Judge Eugene M. Fife, Jr. of the court's Division 1, verbally attacked Prosecutor Noble R. Pearcy, for "twisting my statements" regarding the jury's report which exonerated the Marion County Sheriff's Office of alleged brutality charges. 35-1-8-2

Meanwhile, it was reported last night that Sheriff's Sgt. Donovan King, a key figure in the jail investigation, had submitted his resignation to Sheriff Robert H. Fields. 35-1-8-3

King was suspended by Fields after the jail probe started last month for allegedly firing a tear gas shell into a jail cell. 35-1-8-4

Fields and King could not be reached for comment last night. However, Maj. Alva R. Funk, the sheriff's executive officer, said he did not believe Fields had acted on the resignation. 35-1-8-5

King had testified before the jury, but Fields did not give additional details on the tear gas incident when he suspended King. 35-1-8-6

After the judges ordered the jury to return to work to consider such cases as a securities probe, several

murder cases and the case of fired sheriff's Sgt. Charles W. Haine, Fife launched an all-out attack on Pearcy. 35-1-8-7

Fife asserted:

"I don't blame the grand jury for the whitewash. I lay the blame on the prosecutor's office. It is no secret that Prosecutor Pearcy and Sheriff Robert H. Fields are close personal friends and political allies. And I believe that the record will show Mr. Pearcy was influential in having Fields appointed sheriff." 35-1-8-8.

Fife said he thought the members of the grand jury carefully considered what was brought before them, adding: "But they are only laymen. They are neither skilled investigators nor interrogators. They rely largely on the prosecutor's office, which manipulated them and what they saw and heard and they didn't even realize it." 35-1-8-9

Judge Fife then enumerated several items which he said led him to believe that the grand jury had been steered by the prosecutor's office.

His points: 35-1-8-10

1. "I have personal knowledge of one prisoner, arrested for drunken driving, who was put in jail and beaten so badly he couldn't go back to work for 30 days. That's not necessary discipline. 35-1-8-11

2. "I also have knowledge that Prosecutor Pearcy personally thanked one of his jail-bird witnesses for testimony he gave before the grand jury. He met this witness in the hall and thanked him. 35-1-8-12

3. "The indictment of William A. Brown, for the murder of Elmer L. Reagan was ridiculous, especially in view of the fact that the jury had been considering Brown's case since August and knew he was mentally ill. 35-18-1-1

4. "Why did the sheriff's deputies take Charles P. McAdams into custody and question him both before and after his grand jury testimony? 35-18-1-2

5. "McAdams apparently gave two different stories, the one he gave myself and the coroner's office and the story he later told the grand jury. Now if McAdams lied in the first statement, how could the jurors believe anything he said following that? But the grand jury said in their report that they disapproved of the use of tear gas to quell one unruly prisoner, which was in fact," Fife explained, "one half of McAdams' original statement." 35-18-1-3

In regard to Brown, who was charged with the beating death of jail inmate Elmer Reagan, Fife said he wondered why so much furor was created when McAdams made a statement charging that a deputy sheriff, not Brown, had administered the beating. 35-18-1-4

"The prosecutor's office had this case since August and took no action. Then all of a sudden a big investigation begins and 129 witnesses are called, and the mental patient, incapable of defending himself, is charged. 35-18-1-5

"Then," Fife continued, "Pearcy begins to attack me. Pearcy isn't sincere. He knew he wasn't going to lose his grand jury and he hasn't lost it. He can continue now with his state securities probe, the results of which I'm anxious to see." 35-18-1-6

McAdams, who made a statement to Bethel E. Gaither, chief investigator for the Marion County Coroner's Office, said he saw Reagan beaten by a sheriff's deputy on July 14, and not by a mental patient as deputies said. 35-18-1-7

McAdams repudiated his statement after he was questioned by deputies before and after his grand jury appearance. 35-18-1-8

Fife said he was by no means alone in his belief that the grand jury report was a whitewash. "My phone has rung off the wall with people expressing the same point of view," he said. 35-18-1-9

Fife said he also couldn't believe that his disagreement with the findings of six grand jurors, "could

strike terror into the hearts of three-fourths of a million people as the prosecutor said it did." 35-18-1-10

"I believe that the jury's report was a whitewash engineered by the prosecutor to benefit his friend," Fife said, "and I haven't changed my mind." 35-18-1-11

Members of the grand jury asked to resign last week after Fife termed their report of conditions at the County Jail, "an obvious whitewash." 35-18-1-12

The grand jury delivered its report to the judges last week, after a four-week investigation of jail conditions and hearing testimony of 129 witnesses. 35-18-1-13

Both presiding Judges Saul I. Rabb of Division 2, and Fife said their decision to deny the jury's request to resign was based on the fact that 54 persons are in jail, awaiting grand jury action, and the cases of 36 other persons, charged with crimes but free on bond, also are awaiting grand jury deliberation. 35-18-1-14

"If you are allowed to resign," Rabb told the jury, "another jury would have to be impaneled and they would have to cover much of the same ground you have covered previously. You have served on the jury five months and I think you can continue for another month. And I wish you would." 35-18-1-15

Fife told the members of the grand jury:

"Much has been said about this situation. Prosecutor Pearcy said publicly that I was inconsistent in my remarks. He said I first complimented the grand jury for their report and later castigated them. 35-18-2-2

"That's a pretty good story," Fife said, "except it's just not true. When the jury presented their report to Judge Rabb and myself, I only glanced at it and looked at the last page which showed one indictment. 35-18-2-3

"I thanked the jury for the time and energy they had spent. I didn't read the report until later," Fife

said. "And when I read it, I read it three times before I gave my comments. And Prosecutor Pearcy for reasons of his own, twisted what I said." 35-18-2-4

Exhibit 36 (to Complaint Paragraph 36).

Complaint Exhibit 36 (Tr. 92; 5284; SR 82; SE 898) is a copy of a front-page article published on December 1, 1965, which carried a four-column headline, "Aide's Resignation Not Linked To Jury's Jail Probe, Sheriff Says," and reads as follows:

> Marion County Sheriff's Sgt. Donovan L. King did not resign from the department because of the grand jury prove of alleged county jail brutality, Sheriff Robert H. Fields said yesterday. 36-1-2-1
>
> Fields, who accepted the resignation yesterday, effective today, said King resigned for "personal reasons." He did not elaborate. 36-1-2-2
>
> King, who had been assigned to the jail until he was suspended by Fields for allegedly firing a tear gas shell into a cell, could not be reached for comment last night. 36-1-3-1
>
> The only criticism of the sheriff's department by the grand jury concerned the use of tear gas on a prisoner. "We feel that such a drastic measure should be used only in the event of a riot or major disturbances," the report stated. 36-1-3-2
>
> Meanwhile, four municipal court judges are scheduled to meet again today to discuss hiring a doctor to examine sick, injured, alcoholic or mentally ill jail prisoners before they appear in court. 36-1-4-1
>
> The judges also plan to review the procedure for jailing and caring for prisoners in the county jail and the city lockup. Possible measures for keeping mental patients and alcoholics out of the jail also will be discussed. 36-1-4-2
>
> In another development, attorney William C. Erbecker said yesterday he received an "urgent" plea

from Robert F. Squillan requesting Erbecker to come to Washington where Squillan is being held under Federal indictment for threatening the life of President Johnson. 36-1-4-3

Squillan, who has charged that a Marion County sheriff's deputy violated his civil rights while the deputy was gathering evidence against former Sheriff's Sgt. Charles W. Haine, did not explain in his letter why it was urgent for Erbecker to come to Washington. 36-1-5-2

Erbecker, who is awaiting word from Federal officials concerning the possible violation of Squillan's civil rights, has the written permission of the 23-year-old former soldier to release information concerning his case. 36-22-1-2

Erbecker said he hopes to use the results of the civil rights probe to show the pressure placed on Squillan caused temporary derangements of Squillan's mind. 36-22-1-3

Marion County Prosecutor Noble R. Pearcy was scheduled to return late last night from New York where he was attending to "prosecutor's business." Squillan had been held in New York for a time. 36-22-1-4

Haine has appealed a bribery conviction by the Sheriff's Merit Board. 36-22-1-5

Squillan has stated he signed a statement against Haine prepared by Sheriff's Sgt. Felson Bowman because he was "afraid of losing everything I had worked hard for after my return" to New York. 36-22-1-6

Haine was discharged Oct. 26 for bribery and other departmental infractions. 36-22-1-7

Exhibit 37 (to Complaint Paragraph 37).

Complaint Exhibit 37 (Tr. 93; 5285; SR 83; SE 900) is a copy of a front-page article published on December 3, 1965, which carried a four-column headline, "Mental Patient Pleads Not Guilty In Jail Inmate Reagan's Death," and reads as follows:

> A 27-year-old mental patient pleaded not guilty in Marion County Criminal Court, Division 2, yesterday to the murder of inmate Elmer L. Reagan in the Marion County Jail. 37-1-3-1
>
> William A. Brown appeared calm and attentive during the 15-minute arraignment before Judge Saul I. Rabb and once looked over his shoulder to nod to his father, Henry W. Brown, who was seated in the courtroom. After the hearing, Brown was returned to Marion County General Hospital. 37-1-3-2
>
> Judge Rabb appointed two pauper attorneys, William F. Wurster and Frank P. Huse Jr., to defend Brown, who entered his plea after hearing the indictment read in open court. 37-1-3-3
>
> Brown has been under psychiatric observation at Marion County General Hospital since Aug. 2. He has been in continuous custody since he was arrested in the Indianapolis Police Headquarters training academy, for the theft of a training pistol June 28. 37-1-4-1
>
> Brown was formerly a mental patient at the Pennsylvania State Mental Hospital in Philadelphia. 37-1-4-2
>
> Judge Rabb ordered both of Brown's attorneys to, "make a complete and thorough check of this man's background. He has been in General Hospital for a long time. Find out why, and file the proper motions with this court." 37-1-4-3
>
> Brown was indicted Nov. 23 by the Marion County Grand Jury on a charge of second-degree murder after a four-week investigation of alleged brutality and

mistreatment by deputies of prisoners in the jail. 37-1-5-1

The jury's report, which exonerated the sheriff's department of the brutality charges, was termed an "obvious whitewash" by Judge Eugene M. Fife, Jr., of Marion Criminal Court, Division 1. He charged that the prosecutor's office had steered the members of the grand jury in their investigation. 37-1-5-2

Reagan died Aug. 7, of injuries he suffered in a beating at the jail on July 14. When Reagan's death was bared by The Star Aug. 12, no reports of either his beating, his hospitalization or his death existed at the sheriff's office and no investigation was in progress. 37-1-6-1

Sheriff's aides, however, arrived at the version that Reagan was beaten by Brown, whom they described as a violent mental patient, after both were placed in the same cell. 37-11-7-1

Brown was arrested and charged with Reagan's death after sheriff's aides said they found four eyewitnesses to the beating who gave them evidence. 37-11-7-2

In subsequent developments, prisoner Charles P. McAdams gave Judge Fife and chief coroner's investigator Bethel E. Gaither a statement in which he charged that a deputy sheriff, not the mental patient, was responsible for Reagan's beating. 37-11-8-2

McAdams' statement was turned over to the grand jury by Gaither who began an investigation. McAdams repudiated his statement after he was questioned by sheriff's deputies before and after his grand jury testimony. 37-11-8-3

But the jury continued its probe, hearing a total of 129 persons, and exonerated the sheriff's department and indicted Brown for Reagan's death. 37-11-8-4

Exhibit 38 (to Complaint Paragraph 38).

Complaint Exhibit 38 (Tr. 94; 5286; SR 84; SE 902) is a copy of a front-page article published on December 11, 1965, which carried a three-column headline, "Lawyers Seek Writ, Say Brown Is Illegally Held," and reads as follows:

> Attorneys for William A. Brown, who is charged with the death of jail inmate Elmer L. Reagan, yesterday filed petitions for a writ of habeas corpus hearing in Marion Criminal Court, Division 2. 38-1-6-1
>
> Brown, 26 years old, 404 North Illinois Street, was indicted by the Marion County Grand Jury last month, and charged with second-degree murder in the death of Reagan, 50, who died Aug. 7, of pneumonia resulting from injuries he suffered in a beating in the jail. 38-1-7-2
>
> Brown's court-appointed attorneys, Frank P. Huse Jr., and William F. Wurster, charged in their petition that Brown is being held illegally without bail for a crime he did not commit in violation of his Constitutional rights. 38-1-8-1
>
> Meanwhile, Criminal Court Judge Saul I. Rabb signed an order, requested by Brown's attorneys, ordering the prosecutor to furnish the names and addresses of all additional witnesses they intend to call for testimony in the writ hearing, by Dec. 14. 38-1-8-2
>
> Judge Rabb set Dec. 23 for the hearing date. 38-23-1-1
>
> Brown was arrested on a charge of second-degree murder last August, after The Star bared Reagan's death. However, when Reagan's death was uncovered, no official sheriff's reports existed regarding either his beating or his hospitalization and death, no suspects had been questioned and no investigation was underway. 38-23-1-2
>
> Brown had been a prisoner at the jail since June

when he was arrested by city police for the alleged theft of a training pistol from the city police academy. Reagan was arrested June 28 by city police on a charge of drunkenness. 38-23-2-1

Later, a jail inmate, who signed a notarized statement, said that a deputy sheriff, not Brown, had beaten Reagan. 38-23-2-2

But the inmate repudiated his statement after he was questioned before and after his grand jury testimony by sheriff's deputies. 38-23-2-2

The inmate's statement touched off a grand jury probe of alleged brutality and mistreatment of prisoners in the jail which resulted in a special jury report exonerating the sheriff's office and in Brown's indictment. 38-23-2-3

Brown has been confined at Marion County General Hospital since Aug. 2 for psychiatric observation. 38-23-2-4

Judge Eugene M. Fife Jr., of Criminal Court, Division 1, termed the grand jury report an obvious "whitewash" which had been steered by Prosecutor Noble R. Pearcy to protect his friend and political ally, Sheriff Robert H. Fields. 38-23-2-5

Exhibit 39 (to Complaint Paragraph 39).

Complaint Exhibit 39 (Tr. 95; 5287; SR 85; SE 904) copy of a front-page article published on December 15, 1965, which carried a four-column headline, "Judges Reveal 6-Point Program—Court Doctors To Check Prisoners," and reads as follows:

Four Municipal Court judges yesterday revealed the appointment of a court doctor who will aid them in providing immediate medical care for prisoners and evaluate emergency psychiatric conditions of all prisoners in the court's jurisdiction. 39-1-2-1

Presiding Judge William T. Sharp of Municipal Court, Room 4, announced that Dr. Robert E. Lewis, 32 years old, had been named to the position. 39-1-2-2

The Municipal courts moved last month to keep mental patients out of jail after Judge John C. Christ of Municipal Court, Room 5, introduced a reform program quickly approved by the other judges. 39-1-3-1

Christ's move came in the wake of a grand jury probe of alleged brutality and mistreatment of prisoners in the Marion County Jail. The investigation resulted in a special grand jury report that exonerated the sheriff's office. 39-1-3-2

The report was termed an obvious whitewash by Judge Eugene M. Fife Jr. of Marion Criminal Court, Division 1. Fife said the grand jury had been steered to its conclusion by Prosecutor Noble R. Pearcy, friend and political ally of Sheriff Robert H. Fields. 39-1-3-3

In announcing the appointment of Dr. Lewis, Judge Sharp outlined this program of needs the doctor will fill:

1. Provide immediate medical screening for persons whose arrests were made under circumstances which indicate there is a possible need for emergency psychiatric evaluation. 39-1-4-1

2. Provide the courts with prompt medical evaluations of prisoners to allow emergency care for bona fide psychiatric and medical problems. 39-1-4-2

3. Speed up the release of those persons whose arrests were occasioned by some need for emergency action, but who are able to provide for their own care and treatment on a private basis. 39-1-4-3

4. Provide reports to the judges regarding injuries and prisoner ailments which are not evident on observation by non-medical personnel, and which would render the prisoners incapable of understanding the proceedings in which they are involved. 39-1-5-2

5. Aid in a more selective referral to the hospital in order that the facilities there be used only in an absolute necessity, thereby relieving them of acutely crowded conditions. 39-14-3-1

6. Expedite the release from jail of those persons

who have been examined and found to be in need of institutional care. 39-14-3-2

"It is hoped," Sharp said, "that under this program, persons who are not responsible for their acts by reason of illness or injury may, promptly as possible, be segregated from criminal elements and treated accordingly." 39-14-3-3

Dr. Lewis is married and the father of two children. He and his wife, Susan live at R. R. 9, Box 297 W. He is a deacon at the Broadway Baptist Church. He was graduated from DePaul University in 1953, the Indiana University Medical School in 1957, and served his internship at Methodist Hospital. He has practiced medicine for seven years. 39-14-3-4

Dr. Lewis is a member of the American and Marion County Medical associations and the Phi Rho Sigma Medical Fraternity. 39-14-3-5

Other judges concurring in Dr. Lewis' appointment were Judge Christ, Judge Ernie S. Burke of Municipal Court, Room 3, and Judge Harry F. Zakkan of Municipal Court, Room 6. 39-14-3-6

Exhibit 40 (to Complaint Paragraph 40).

Complaint Exhibit 40 (Tr. 96; 5288; SR 86; SE 911) is a copy of an article published on December 18, 1965, on page 27, which carried a two-column headline, "Jail Probe Witness To Serve Out Term" and reads as follows:

Judge Eugene M. Fife Jr. of Criminal Court, Division I, yesterday ordered Charles P. McAdams to serve the remainder of his six-month jail term at the Indiana State Farm, for his own safety, after denying his request for release. 40-27-4-1

McAdams, 35 years old, triggered an investigation of the Marion County Jail in October, when he signed a statement in which he said he saw a deputy sheriff beat a prisoner, Elmer L. Reagan, 50, who later died. 40-27-4-2

Judge Fife freed McAdams on Oct. 25, commuting a six-month sentence for violation of the Offense Against Property Act, to time served. McAdams, however, repudiated his statement after he was questioned by sheriff's deputies, before and after his testimony before the grand jury, and Fife ordered McAdams' jail term reinstated. 40-27-5-1

In yesterday's habeas corpus hearings, McAdams' attorney, William C. Erbecker, attacked the reinstatement of the sentence by Fife, saying once the judge had altered the commitment to time served, the judge no longer had power to reinstate the sentence. 40-27-5-2

Fife overruled the point. However, he said that, due to reports he had received that McAdams feared for his safety in the jail, he was going to order him to serve the remainder of his term at the State Farm. 40-27-5-3

McAdams is eligible for release in February. 40-27-5-4

Exhibit 41 (to Complaint Paragraph 41).

Complaint Exhibit 41, (Tr. 97; 5289; SR 87; SE 912) is a copy of a front-page article published on December 23, 1965, which carried a four-column headline, "Brown Defense Hits Pearcy Move," and reads as follows:

The Marion County Prosecutor's Office came under sharp attack yesterday by attorneys for William A. Brown, who was indicted for second-degree murder last month in the fatal beating of a county jail inmate. 41-1-5-1

Attorneys Frank P. Huse Jr. and William F. Wurster criticized the prosecutor's office in a petition for the "premature suggestion" that Brown be subjected to a psychiatric examination to determine if he is capable of standing trial. 41-1-6-1

Judge Saul I. Rabb of Marion Criminal Court, Division 2, granted the prosecutor's request on Tuesday and appointed two doctors to examine Brown. 41-1-6-2

But Rabb declined to dismiss a writ of habeas corpus

hearing for Brown, as the prosecutor suggested. The hearing is scheduled today. 41-1-6-3

Brown's attorneys will try to show Brown was arrested and held illegally for a crime he did not commit. 41-1-7-1

In their petition to Judge Rabb, seeking to set aside the prosecutor's request, Huse and Wurster charged: 41-1-7-2

1. The prosecutor is serving a dual role as prosecutor and defense counsel for Brown. 41-1-7-3

2. The prosecutor's office implied that Brown was sane by indicting him for murder and not attempting to determine his sanity earlier. 41-1-8-1

3. The prosecutor must be acting on secret grand jury testimony since Brown never has had a hearing since his indictment. 41-1-8-2

4. Neither Prosecutor Noble R. Pearcy nor Leroy K. New or any other staff member has had personal contact with Brown, and they have no actual knowledge of his mental condition. They said the suggestion of insanity petition was filed by the prosecutor for the purpose of clouding the issues in Brown's writ of habeas corpus and as an attempt to deny him a fair and impartial hearing. 41-8-1-1

Huse said all the information legitimately available to the prosecutor's office Tuesday, when the prosecution's staff filed the petition, was available to them last August, when Brown became a suspect in the beating death of the inmate, Elmer L. Reagan. 41-8-1-2

"We can only assume that the numerous witnesses they refer to must be witnesses who appeared before the grand jury," Huse said. 41-8-1-3

Huse and Wurster said on the basis of information supplied to the prosecutor's office by a sheriff's deputy on Aug. 13, the prosecutor proceeded with the charge of second-degree murder against Brown. 41-8-2-1

"It can only be assumed that the prosecutor's office, as was its duty then," Huse said, "reviewed all of this material and concluded Brown had the mental capacity

to perform the crime so charged. They give no explanation how they are able to assert insanity so promptly after impliedly asserting Brown's sanity." 41-8-2-2

The attorneys said they were "mystified" as to how the prosecutor could be permitted to charge Brown with murder and, four months later, acting on the same information available at the time of the charge, maintain he did not have the mental capacity. 41-8-2-3

"It is also coincidental that the suggestion of insanity was filed only two days before Brown's writ hearing," Huse said. 41-8-2-4

Huse said in his petition that Pearcy's grand jury deputy, James E. Bath, inquired last week why a writ of habeas corpus had been filed for Brown instead of a plea of insanity. 41-8-3-1

Huse said he replied to Bath that he was confident of Brown's innocence and filed his plea accordingly. 41-8-3-2

Huse said the testimony of witnesses referred to in New's Suggestion of Insanity can only be testimony of witnesses before the grand jury and therefore an invasion of the secrecy of the grand jury since there never has been a hearing before any court concerning Brown's indictment. 41-8-3-3

Huse said the recent inquiry by Bath and the proceedings filed by New make it evident Brown's case has been for some time in the minds of officials of the prosecutor's office and the proceedings were filed for the purpose of clouding the issues of Brown's writ hearing, thus attempting to deny him a fair and impartial hearing. 41-8-3-4

Huse also was critical of New's use of a seldom-used statute which legally allows his office to make a Suggestion of Insanity. 41-8-3-5

"It amounts to representation of the defendant by the prosecutor who is also responsible for the prosecution," Huse said. "And the attempt to represent both parties was surely not the intent of the legislature which enacted the statute." 41-8-3-6

Huse said the appointment of two psychiatrists and a possible determination of the defendant's comprehension, before completion and a ruling on the writ of habeas corpus; could violate Brown's constitutional rights and deny him forever the opportunity to exonerate himself. 41-8-3-7

Judge Rabb accepted Huse and Wurster's petition and told them he would rule on it later. He said the writ hearing will go on as scheduled. 41-8-3-8

Pearcy declined to comment on the action by Brown's attorneys until today. 41-8-3-9

Pearcy denied his office tried to block the writ hearing. He said he did not consider the writ of habeas corpus a matter related to the issues in the case. 41-8-3-10

He said the plea to determine Brown's competence to stand trial before further proceedings were held included only pleadings and hearings which would tend to prove Brown's guilt or innocence. 41-8-3-11

Brown became the center of a controversy in August when he was charged by sheriff's investigators with beating Reagan, 50, who died of complications brought on by the injuries. 41-8-3-12

In October, another jail inmate triggered a grand jury probe of alleged brutality in the jail when he said a deputy sheriff, not Brown, had beaten Reagan on July 14. 41-8-3-13

The jail inmate later repudiated his statement. The jury investigated jail conditions four weeks and then exonerated the sheriff's office and indicted Brown in a special report. 41-8-3-14

The report was described as a "whitewash" by Judge Eugene M. Fife Jr. of Criminal Court, Division 2. 41-8-3-15

Exhibit 42 (to Complaint Paragraph 42):

Complaint Exhibit 42 (Tr. 98; 5290; SR 88; SE 916) is a copy of a front-page article published on December 24, 1965, which carried a two-column headline, "Judge Refuses To Dismiss Brown Hearing," and reads as follows:

> Judge Saul I. Rabb, of Criminal Court Division 2, yesterday refused the request of the Marion County prosecutor's office to dismiss a writ of habeas corpus hearing for a prisoner who is charged with the murder of a Marion County jail inmate. 42-1-1-1
>
> Leroy K. New, chief trial deputy for the prosecutor's office, requested that Rabb dismiss the hearing on grounds that enough evidence had been presented to warrant the detention of William A. Brown on a charge of second-degree murder. 42-1-1-2
>
> Rabb twice refused New's request, made first in open court, and later in Rabb's chambers, saying he wanted to hear the rest of the evidence before making a ruling. 42-1-1-3
>
> Before the hearing began, Rabb took notice of the fact that New had filed with the court Tuesday a Suggestion of Insanity pleading against Brown, in which New requested doctors be appointed to examine the defendant to determine his ability to stand trial. 42-1-1-4
>
> "In reading between the lines of your suggestion," Rabb said, "I got the idea that perhaps the prosecutor's office is saying an indictment should not have been returned against this defendant. This pleading could be the equivalent of a nolle by the prosecutor," the judge said. 42-1-1-5
>
> New took immediate exception to Rabb's remarks and said the prosecutor intended no such inference in filing the Suggestion of Insanity pleading, but had acted in such a manner only because Brown's counsel had failed to do so. 42-1-1-6.
>
> Brown's court-appointed attorneys, Frank P. Huse

Jr. and William F. Wurster, questioned five witnesses during yesterday's hearing. 42-1-1-7

Two of the witnesses, prisoners who were inmates of the County Jail July 14, when Brown allegedly beat Elmer L. Reagan, testified yesterday they saw the beating, but each gave different times. 42-1-2-1

George Cox, presently serving a 90-day jail term on a drunkenness charge, said he saw Brown "run and jump on a guy and kick as he kept yelling, 'I got rid of one guy.'" 42-1-2-2

Cox said the attack took place just after noon on July 14, and that Reagan was sent to the hospital late that night. 42-1-2-3

Another inmate, Thomas J. Duffy, presently serving a term at the Indiana State Penal Farm at Putnamville after a conviction for drunkenness, said he, too, witnessed Brown attack Reagan on July 14. 42-1-2-4

Duffy said the attack took place on the middle shift, sometime between 3 p.m and 11 p.m. on July 14 and that Reagan was taken to the hospital late that evening. 42-1-2-5

Both witnesses admitted during questioning by Huse and Wurster that they barely knew Reagan and Brown and couldn't give descriptions of them. Both men also were vague in their recollections about when they were questioned about the beating, or what they said when Reagan's death was brought to light and a sheriff's department investigation was begun. 42-1-2-6

However, both agreed that the basement cage, in which the alleged beating took place was a dismal, damp area of the old jail. 42-11-7-1

Huse called for another witness to the alleged beating, Vanis F. York, and was informed by New that the witness was drunk in the prosecutor's office. 42-11-7-2

"He's my witness Mr. New," Huse said. "what is he doing in your office?". 42-11-7-3

New replied, "I told you he was in our office. If you want him go get him." 42-11-7-4

New said York came to the prosecutor's office in an intoxicated condition. Why he appeared there was not explained. 42-11-7-5

Huse called for York as a witness during the afternoon session of the hearing but he still was not considered able to take the stand. 42-11-7-6

Two other witnesses, Austin O. Paff Jr. and Joseph Winburn, who reportedly gave deputies eyewitness accounts of the beating, and who testified before the grand jury did not answer their subpenas to appear for the hearing. New said repeated attempts to locate them had been futile. 42-11-7-7

Huse also raised a question in the hearing about why the names of two witnesses, Charles P. McAdams and Boone Wise, had been scratched off of the original list of witnesses presented to the court-appointed attorneys. 42-11-7-8

"Didn't both of these men testify before the grand jury in this matter?" Huse asked. "And I'd like to know why their names were removed from the list of witnesses to be called." 42-11-7-9

New said both men did testify before the grand jury and then added that neither man was in a position on July 14 to witness Brown's alleged attack on Reagan. 42-11-7-10

Huse said he learned from a prosecutor's aide that Grand Jury Deputy Prosecutor James E. Bath was responsible for removing the names of the witnesses from the list. 42-11-7-11

Dr. Marvin D. Dziabis, chief pathologist for the county coroner's office, testified yesterday that Reagan died of pneumonia brought on by 14 broken ribs. Dr. Dziabis said the fractures could have been caused by repeated kicks upon the victim's body, or by being jumped on. 42-11-7-12

He also testified that the lower part of Reagan's body bore multiple abrasions and one cut on the left chest, which could have been caused by a kick. Dr. Dziabis also said the pneumonia could have been

accelerated by lying on the cold damp floor of the jail naked. 42-11-7-13

Previous examination of medical records at Marion County General hospital disclosed that when Reagan was admitted to the hospital on July 14 he was suffering broken ribs and the early stages of pneumonia. 42-11-7-14

Huse put Sheriff Robert H. Fields on the stand briefly yesterday in an attempt to determine the exact whereabouts of all prisoners involved in Brown's case. 42-11-7-15

But Fields was allowed to leave the stand, subject to recall later, after he and New agreed to allow Huse and Wurster to examine all records and information obtained regarding Brown, and to make copies of the documents if they desired. 42-11-7-16

Judge Rabb continued the hearing, over New's objections, to Jan. 13, after Huse said he wanted to present more medical testimony and other witnesses to show his client did not commit the crime for which he is charged. 42-11-7-17

Brown's father, Henry W. Brown, also testified yesterday that he believed his son was ill and in need of medical treatment but that he should not be kept in jail. 42-11-7-18

The father said he could make a reasonable bond for his son, if necessary, but probably would not since he believes the son needs help. 42-11-8-1

"I hate to believe he could kill anyone," Mr. Brown said. . . . "I just don't want to believe it." 42-11-8-2

William A. Brown became the center of a controversy in August when he was charged by sheriff's aides as being the man who beat and kicked Reagan on July 14. 42-11-8-3

In October, another jail inmate, McAdams, touched off a grand jury probe of alleged brutality in the jail when he said a deputy sheriff, not Brown, had beaten Reagan on July 14. 42-11-8-4

McAdams later repudiated his original statement to Sgt. James Mellene. McAdam's repudiation statement was admitted into evidence at the hearing yesterday. 42-11-8-5

The grand jury conducted a four week probe of jail conditions and in November exonerated the sheriff's office and indicted Brown. 42-11-8-5

The report was described as a "whitewash" by Judge Eugene M. Fife Jr. of Criminal Court, Division 1. 42-11-8-6

Exhibit 43 (to Complaint Paragraph 43).

Complaint Exhibit 43 (Tr. 99; 5291; SR 89; SE 921) is a copy of an article published on Sunday, December 26, 1965, on page one of the second or editorial section. This article carried a six-column headline, "Palm Sunday Tornadoes Voted Big Story of 1965," and reads as follows:

The Palm Sunday tornadoes, worst natural disaster in Indiana history, were voted the state's top 1965 news story by The Indianapolis Star's staff. 43-1-1-1

The twisters, which killed 140 persons and did an estimated $100 million damage April 11 in 18 northern and central Indiana counties, were a top-heavy choice in the balloting. 43-1-1-2

In the wake of the disaster, Hoosiers contributed $568,837 to the Red Cross Tornado Relief Fund to aid the hundreds of persons injured or left homeless. 43-1-1-3

The spectacular life, death and dealings of Indianapolis securities agent Michael Dobich were a solid choice for the year's No. 2 story. 43-1-1-4

Dobich, 38 years old, was killed July 10 in a flaming helicopter crash. His death brought disclosure that his firm had failed to deliver $2.9 million in stocks it had sold and touched off a probe of the state's securities business that still is under way. 43-1-1-5

The actions of the Indiana General Assembly were voted the year's third best story. During its regular session, the legislature passed among other legislation 14 controversial "power grab" bills designed to give the mayor of Indianapolis surprising control over city and county government. 43-1-1-6

The General Assembly also appropriated $25 million toward construction of Indiana's long-awaited deep-water port at Burns Harbor on Lake Michigan. 43-1-1-7

The legislature later met in two special sessions. 43-1-1-8

One gave Governor Roger D. Branigin power to make a strong bid for Indiana as the site for a $300 million Federal atomic research installation. The other produced a state legislative reapportionment plan that satisfied a three' judge Federal panel. 43-1-1-9

The redistricting made the General Assembly a legal body by both state constitution and Federal court standards for the first time since 1927. 43-1-1-10

A Marion County Grand Jury probe of alleged brutality at the Marion County Jail, touched off by the beating death of a 50-year-old jail inmate, was voted the fourth best story of the year by The Star's staff. 43-1-1-11

The Aug. 7 death of the inmate, Elmer L. Reagan, was first reported by The Star, and a notarized statement made later by another inmate accused a jail deputy of the fatal beating. 43-1-1-12

After hearing jail brutality charges by more than a dozen prisoners and listening to 129 witnesses, the grand jury declared that the sheriff's department was not guilty of wrongdoing. The finding touched off widespread charges of a grand jury "whitewash." 43-1-2-1

The year's No. 5 story was the two major snowstorms which struck Indiana Jan. 14-16 and Feb. 24-25, paralyzing much of the state and contributing to the death of 48 persons. 43-1-2-2

The sixth story was Indiana's bid for the Atomic Energy Commission's $300-million atomic research facility. 43-1-2-3

The General Assembly voted $10 million toward supporting the Eagle Creek site, northwest of Indianapolis, and the AEC also was asked to consider sites near Clinton and Jeffersonville. 43-1-2-4

The grisly torture slaying of 16-year-old Sylvia Marie Likens rated as the year's No. 7 story. Her beaten, scalded and mutilated body was found Oct. 27 at the east side Indianapolis home of Mrs. Gertrude Wright, the mother of seven children with whom the young victim had been staying. 43-1-2-5

Mrs. Wright, three of her children and three other juveniles face charges in the slaying. 43-1-2-6

The No. 8 story was the continuing dispute over capital punishment. The legislature repealed the death penalty in its regular session but Governor Branigin vetoed the measure. 43-1-3-1

The year's ninth story was the month-long rehearsal and Sept. 20 debut of the newly formed Metropolitan Opera Company, one of the outstanding social and cultural events in Indianapolis history. 43-1-3-2

The No. 10 story of 1965 was the victory of Scotland's Jimmy Clark in the 500-Mile Race. Clark became the first foreigner to win the "500" since 1916. 43-1-6-1

TOP TEN STORIES.

1. Palm Sunday tornadoes kill 140 persons and cause an estimated $100 million damage in 18 northern and central Indiana counties. 43-1-2-7

2. Death of Indianapolis securities dealer Michael Dobich touches off wide-ranging probe of the Indiana securities business. 43-1-2-8

3. Indiana General Assembly passes 14 controversial "power grab" bills, reapportions itself and puts Governor Roger D. Branigin in position to push for Federal atomic facility for Indiana. 43-1-2-9

4. Beating death of Marion County Jail inmate brings probe of alleged jail brutality by the Marion County Grand Jury. The probe exonerated the sheriff's department of any wrongdoing, leading to charges that the investigation was a "whitewash." 43-1-2-10

5. Major snowstorms in January and February paralyze much of Indiana and kill 48 persons. 43-1-2-11

6. Indiana bids for Atomic Energy Commission's $300-million nuclear accelerator. 43-1-2-12

7. Mother of seven, three of her children and three other juveniles face charges in the torture slaying of 16-year-old Sylvia Marie Likens. 43-1-2-13

8. Governor Branigin vetoes Indiana General Assembly's repeal of capital punishment. 43-1-2-14

9. Metropolitan Opera National Company makes debut at Indianapolis' Clowes Memorial Hall. 43-1-2-15

10. Scotland's Jimmy Clark wins the 500-Mile Race. 43-1-2-16

Exhibit 44 (to Complaint Paragraph 44).

Complaint Exhibit 44 (Tr. 100; 5292; SR 90; SE 924) is a copy of front-page article published on December 28, 1965, which carried a three-column headline, "Grand Jury's Dismissal Sought By Fired Deputy," and reads as follows:

Attorneys for fired Sheriff's investigator Charles W. Haine filed a petition yesterday requesting the Marion County Grand Jury be dismissed. 44-1-1-1

The lawyers, William C. Erbecker and Sam Blum, filed the motion before Judge Saul I. Rabb in Criminal Court, Division 2, in which the jury is scheduled to report Thursday. 44-1-1-2

John T. Davis, the county prosecutor's chief deputy, said the petition "has no merit whatever," and added, "this is the first time I can recall such a pleading being

made when the person involved was not under indictment.'" 44-1-1-3

Haine was fired from the sheriff's department last October after a Sheriff's Merit Board hearing in which he was found guilty of accepting a bribe from ex-convict Leon Johnson and other charges. Haine's case is among those on which the jury is expected to report Thursday. 44-1-1-4

Witnesses who testified against Haine in the Merit Board hearing had testified earlier before the grand jury. 44-1-1-5

Haine's lawyers based their plea on these points: 44-1-1-6

1. The members of the grand jury are serving out their terms as jurors by court order. 44-1-2-1

2. The jurors have heard illegally-obtained testimony and evidence against Haine from Robert F. Squillan. 44-1-2-2

3. The grand jury is illegally constituted in that it is acting under pressure of court order and any of its investigations are the result of coercion, compulsion and undue influence. 44-1-2-3

The Haine petition asked that the grand jury be dismissed and that any of its findings or indictments in respect to Haine be voided. 44-1-2-4

Erbecker said the testimony presented to the grand jury from Squillan on Sept. 27, was not true and was presented to the grand jury against Squillan's wishes. 44-1-2-5

Haine was charged with accepting $600 from Squillan and $200 from his mother, Mrs. Florence Dagrossa, in exchange for using his influence to obtain a suspended sentence and probation for Squillan on a robbery charge in Judge Eugene M. Fife, Jr.'s Criminal Court, Division 1, last March. 44-1-2-6

Haine denied accepting the money, and Mrs. Dagrossa and her son told The Star in September that they did not give Haine any money, but had been forced to

sign statements that they had done so by Sheriff's Sgt. Felson Bowman, who visited them in Brooklyn, N. Y. 44-1-3-1

However, at Haine's hearing, Mrs. Dagrossa said she did give Haine money. Her son, who fled to Europe and violated his probation, has been arrested for making a threat on the life of President Lyndon B. Johnson. Squillan told his attorney his irrational acts were committed from fear of returning to Marion County, and facing the prison terms with which Bowman threatened him if he did not sign statements against Haine. 44-1-3-2

The members of the grand jury attempted to resign last month, but were ordered back to work due to the large number of cases pending. 44-1-3-3

The grand jurors had become angry because Judge Fife criticized their special report, which he termed a "whitewash" of alleged brutality in Marion County Jail. 44-1-3-4

Judges Rabb and Fife ordered the jurors back to work to consider evidence pending against numerous persons in jail awaiting grand jury action. 44-1-3-5

B.

SUMMARY OF COMPLAINT (WITHOUT EXHIBITS) AND ANSWER.

The complaint and answer are found at Tr. 3-101; 300-330; SR 1-91; 92a-97b.

The first eleven rhetorical paragraphs of each of the 44 paragraphs of complaint, and the answers thereto (immediately following each such rhetorical paragraph as set forth below) are identical and as follows:

"1. Plaintiff is, by profession, an attorney-at-law, and was Sheriff of Marion County at all times mentioned herein."

"1. Admit the allegations contained in rhetorical paragraph 1."

"2. Defendant, Indianapolis Newspapers, Inc., is an Indiana Corporation. It, and defendants Eugene C. and Eugene S. Pulliam, publish a newspaper, 'The Indianapolis Star,' which has an average circulation of 225,584 each week day and 360,742 on Sunday."

"2. Admit the allegations contained in rhetorical paragraph 2."

"3. For many months before the publication specified in Paragraph 12 hereof, defendants harbored actual malice toward plaintiff. Motivated thereby, defendants induced certain unveracious and supine persons to furnish them with false statements, both written and oral, with the understanding defendants would not hold such statements in confidence but would publish same, as a facade for the basis of the defamatory matter specified in Paragraph 12 hereof. Defendants knew some of said statements were false and recklessly disregarded whether or not any of them were false."

"3. Deny the allegations contained in rhetorical paragraph 3."

"4. In the composition of the defamatory matter specified in Paragraph 12, defendants employed said false statements, so induced by them, and interlarded same with their own false and deceptive statements and comments, in some cases attributing falsehoods of their own authorship to unidentified and mythical persons, dovetailing all together, link by link, and imprinted upon the whole composition, and the publication thereof, their own imprimatur."

"4. Deny the allegations contained in rhetorical paragraph 4."

"5. Except for the statement of one Charles P. McAdams, a copy of which plaintiff has, plaintiff is unable to specify, with certainty, which (Summary of Record, p. 1) falsehoods were of defendant's sole authorship, which were procured from unveracious or supine persons, and which were in fact of defendants' own authorship but attributed to mythical persons, because this information is peculiarly within defendants' own knowledge and control."

"5. Deny the allegations contained in rhetorical paragraph 5, including the erroneous assumption therein that defendants authored or procured falsehoods concerning plaintiff."

"6. In the publication specified in Paragraph 12, defendants charged plaintiff with the commission of certain crimes."

"6. Deny the allegations contained in rhetorical paragraph 6."

"7. Plaintiff was innocent of said crimes and defendants knew it."

"7. Are without information as to the allegations contained in rhetorical paragraph 7."

"8. Prior to the matters complained of, plaintiff enjoyed a good reputation."

"8. As to rhetorical paragraph 8, are without information as to whether plaintiff enjoyed a good reputation personally or as a lawyer, but deny

that plaintiff enjoyed a good reputation as sheriff of Marion County."

"9. His good reputation was ruined by the publication specified in Paragraph 12, resulting in his being held up to public scorn, shame and disgrace, to his damage as prayed herein."

"9. Deny the allegations contained in rhetorical paragraph 9."

"10. Three days before filing this action, plaintiff served defendants a notice and demand to retract the specified defamatory matter, a copy of which is hereto attached as Exhibit 44*, to which was attached a complete copy of this complaint, including all paragraphs thereof, and Exhibits 1 through 44 attached thereto."

"10. Admit, as to rhetorical paragraph 10, that three days before filing this action plaintiff served defendants a notice and demand to retract, a copy of which is attached to plaintiff's complaint as Exhibit 44A, to which exhibit was attached a copy of plaintiff's complaint, including all paragraphs (Summary of Record, p. 92(a) thereof, and Exhibits 1 through 44, attached thereto, but deny that said notice and demand to retract specified the statements in said publications which plaintiff alleged to be false and defamatory as required by Chapter 45, Section 1,

* Complaint Exhibit 44A (Tr. 101, 5804; SR 91; SE 927-928) reads in pertinent part as follows:

"The attached unfiled complaint and Exhibits 1 through 44 are expressly incorporated into this notice. It specifies the statements and meanings in each of the 44 publications alleged to be false and defamatory.

"On behalf of Robert H. Fields, and without waiving the question of malice by the serving of this statutory notice, demand is made for a full, true and unequivocal retraction of the several alleged defamations commensurate with space and time devoted to the publication thereof.

"If, for any reason, this notice is not clear you, or someone on your behalf, may seek clarification, which will be cheerfully furnished."

of the Acts of 1895 of the State of Indiana (Burns' 2-1043)."

"11. Defendants, in order to gratify their malice, aforesaid, published the printed matter specified and otherwise identified in Paragraph 12 by date and exhibit number. Said defamatory matter is a clipped, pasted and dated photocopy of the entire published matter in which the defamatory or explanatory matter appeared and identified by assigned exhibit designation: For reference purposes, it is interlined with four ciphers at the end of each paragraph designating respectively, (1st) the exhibit number in which the paragraph appeared; (2) the page of the issue of 'The Indianapolis Star' on which the paragraph appeared; (3rd) the column on said page in which the paragraph appeared, and (4th) the paragraph number in said column, as the whole exhibit appeared on the original page, unclipped, from that issue of 'The Indianapolis Star'."

"Deny the allegations contained in rhetorical paragraph 11."

Rhetorical paragraph 12 of each of the 44 paragraphs of complaint alleges that defendant published the exhibit referred to therein, "having theretofore maliciously and with premeditated purpose to so do, composed same so as to cause it to convey the false and defamatory meanings set forth below when read in full context, and in context with previously published [complaint exhibits]." Then follows, in each rhetorical paragraph 12, the alleged false and defamatory meanings about plaintiff, allegedly conveyed by the exhibit attached thereto who so read in full context and in context with previously published complaint exhibits. With respect to each such exhibit, it was alleged that when so read it conveyed one or more of the following false and defamatory meanings about the plaintiff:

1. *Alleged Accusations of Crime Against Plaintiff With Respect to the Death of Elmer L. Reagan.*

(Each of Complaint Paragraphs and Exhibits 1 through 4 and 6 through 14.)

"a. That plaintiff's deputies, or members of the Marion County Police Force, over whom plaintiff had direction and supervision, had murdered, or otherwise committed felonious homicide upon one Elmer L. Reagan, then and there a prisoner of the Marion County Jail, and that plaintiff assisted said deputies, as hereinafter alleged, with intent that they would escape punishment." (SR 3)

"b. That in order to assist plaintiff's said deputies, or members of the Marion County Police Force, over whom he had direction and supervision, who had murdered, or otherwise committed felonious homicide upon one Elmer L. Reagan, then and there a prisoner of the Marion County Jail, plaintiff, without probable cause, maliciously attempted to cause an indictment to be found, or otherwise prosecution to be commenced, against one William A. Brown for the aforesaid murder or felonious homicide of said Elmer L. Reagan, or conspired with others for said purpose." (SR 3)

"c. That in order to assist plaintiff's said deputies, or members of the Marion County Police Force, over whom he had direction and supervision, who had murdered, or otherwise committed felonious homicide upon one Elmer L. Reagan, plaintiff corruptly, and by force and threats, endeavored to influence, intimidate and impede a witness, to-wit: Charles P. McAdams; in a certain court of the State of Indiana, to-wit: The Criminal Court of Marion County and the Grand Jury thereof, and, by the same means endeavored to obstruct and impede the due administration of justice therein." (SR 3)

2. *Alleged Accusation of Crime Against Plaintiff With Respect to the Beating of Arthur L. Derringer.*

(Each of Complaint Paragraphs and Exhibits 2 through 6.)

"That plaintiff, by his subordinates, deputies or members of the Marion County Police Force, over whom he had direction and supervision, by acquiescence in their conduct, knowingly and unlawfully inflicted great bodily harm and disfigurement upon Arthur L. Derringer, then and there a prisoner in the Marion County Jail." (SR 4)

3. *Alleged Accusations of Crime Against Plaintiff With Respect to the Beating of James P. Dearing.*

(Complaint Paragraph and Exhibit 5.)

"That plaintiff, by subordinates, deputies, or members of the Marion County Police Force, over whom he had direction and supervision, by acquiescence in their conduct, and with intent to kill James P. Dearing, perpetrated an assault and battery upon said James P. Dearing, being then and there a prisoner of the Marion County Jail, with intent to kill said James P. Dearing." (SR 6)

4. *Alleged Accusations of Crime Against Plaintiff With Respect to the Beating of Denzil Loren Neville, Jr., and an Unidentified "Old Man."*

(Complaint Paragraph and Exhibit 7.)

"That plaintiff, by his subordinates, deputies or members of the Marion County Police Force, over whom he had direction and supervision, by acquiescence in their conduct, knowingly and unlawfully inflicted great bodily harm and disfigurement upon Denzil Loren Neville, Jr. and an unidentified 'old man,' then and there prisoners in the Marion County Jail." (SR 8)

5. *Alleged Accusations of Crime Against Plaintiff With Respect to the Beating of Jimmy Harold Green and an Unidentified "Old Man."*

(Complaint Paragraph and Exhibit 7.)

"That plaintiff, by subordinates, deputies, or members of the Marion County Police Force, over whom he had direction and supervision, by acquiescence in their conduct, and with intent to kill Jimmy Harold Green and an unidentified 'old man,' perpetrated an assault and battery upon said Jimmy Harold Green and the unidentified 'old man,' they being then and there prisoners of the Marion County Jail, with intent to kill said Jimmy Harold Green and the unidentified 'old man.'" (SR 8)

6. *Alleged Accusations of Crime Against Plaintiff With Respect to the Prosecution of His Deputy Charles W. Haine, for Accepting a Bribe.*

"That in order to prosecute one of plaintiff's deputies, or a member of the Marion County Police Force, to wit: Charles W. Haine; over whom plaintiff had direction and supervision, for accepting a bribe as such deputy, or as such member of the Marion County Police Force, plaintiff, by his subordinate Felson Bowman, another deputy or member of the Marion County Police Force, corruptly and by force and threats endeavored to influence, intimidate and impede witnesses, to-wit: Robert F. Squillan and Florence DaGrossa, in a certain court of the State of Indiana, to-wit: The Criminal Court of Marion County and the Grand Jury thereof, and by the same means endeavored to obstruct and impede the due administration of justice therein." (Each of Complaint Paragraphs and Exhibits 8, 9, 10, 16, 17, 28, 31, 36 and 44). (SR 9)

"That plaintiff, without probable cause, maliciously attempted to cause an indictment to be found, or other prosecution to be commenced, against one Charles W. Haine for receiving or accepting a bribe, or con-

spired with others for said purpose." (Complaint Paragraph and Exhibit 36). (SR 27)

7. *Alleged Accusations of Crime Against Plaintiff with Respect to the Deaths of Elmer L. Reagan and Danner Crick.*

(Each of Complaint Paragraphs and Exhibits 15, 18 through 27, 29 through 35, and 37 through 44.)

"a. That plaintiff's deputies, or members of the Marion County Police Force, over whom plaintiff had direction and supervision, had murdered, or otherwise committed felonious homicide, upon one Elmer L. Reagan and one Danner Crick, then and there prisoners of the Marion County Jail, and that plaintiff assisted said deputies with intent that they would escape punishment for the homicide of Elmer L. Reagan, as alleged in sub-paragraphs (b) and (c) hereof, and by concealing the homicide of Danner Crick." (SR 14)

"b. That in order to assist plaintiff's said deputies, or members of the Marion County Police Force, over whom he had direction and supervision, who had murdered, or otherwise committed felonious homicide upon one Elmer L. Reagan, then and there a prisoner of the Marion County Jail, plaintiff, without probable cause, maliciously attempted to cause an indictment to be found, or otherwise prosecution to be commenced, against one William X. Brown for the aforesaid murder or felonious homicide of said Elmer L. Reagan, or conspired with other for said purpose." (SR 14)

"c. That in order to assist plaintiff's said deputies, or members of the Marion County Police Force, over whom he had direction and supervision, who had murdered, or otherwise committed felonious homicide upon one Elmer L. Reagan, plaintiff corruptly, and by force and threats, endeavored to influence, intimidate and impede a witness, to-wit: Charles P. McAdams, in a certain court of the State of Indiana, to-wit: The Criminal Court of Marion County and the Grand Jury thereof, and, by the same means endeavored to obstruct and impede the due administration of justice therein." (SR 14)

8. *Alleged Accusations of Crime Against Plaintiff with Respect to the Death of Danner Crick.*

(Complaint Paragraphs and Exhibits 16 and 17.)

"That plaintiff's deputies, or members of the Marion County Police Force, over whom plaintiff had direction and supervision, had murdered or otherwise committed felonious homicide, upon one Danner Crick, then and there a prisoner of the Marion County Jail, and that plaintiff concealed said homicide with intent that his deputies would escape punishment." (SR 15)

For example, rhetorical paragraph 12 of Complaint Paragraph 44, reads as follows:

"12. Tuesday, December 28, 1965, defendants maliciously published the printed matter reflected in Exhibit 44, hereto attached, having theretofore maliciously and with premeditated purpose to so do, composed same so as to cause it to convey the false and defamatory meanings set forth below when read in full context, and in context with previously published printed matter, by defendants, as shown by Exhibits 1 through 43, which were published beginning October 27, 1965 on 36 consecutive days, and on December 3, 1965, December 11, 1965, December 15, 1965, December 18, 1965, December 23, 1965, December 24, 1965 and December 26, 1965, and which contributed to the meaning of Exhibit 44, as hereinafter alleged, and for that purpose are, by reference, made a part of Paragraph Forty-Four.

"(a) That plaintiff's deputies, or members of the Marion County Police Force, over whom plaintiff had direction and supervision, had murdered, or otherwise committed felonious homicide, upon one Elmer L. Reagan and one Danner Crick, then and there prisoners of the Marion County Jail, and that plaintiff assisted said deputies with intent that they would escape punishment for the homicide of Elmer L. Reagan, as alleged in sub-paragraphs (b) and (c) hereof, and by concealing the homicide of Danner Crick.

"(b) That in order to assist plaintiff's said deputies, or members of the Marion County Police Force, over whom he had direction and supervision, who had murdered, or otherwise committed felonious homicide upon one Elmer L. Reagan, then and there a prisoner of the Marion County Jail, plaintiff, without probable cause, maliciously attempted to cause an indictment to be found, or otherwise prosecution to be commenced, against one William A. Brown for the aforesaid murder or felonious homicide of said Elmer L. Reagan, or conspired with others for said purpose.

"(c) That in order to assist plaintiff's said deputies, or members of the Marion County Police Force, over whom he had direction and supervision, who had murdered, or otherwise committed felonious homicide, upon one Elmer L. Reagan, plaintiff corruptly, and by force and threats, endeavored to influence, intimidate and impede a witness, to-wit: Charles P. McAdams, in a certain court of the State of Indiana, to-wit: The Criminal Court of Marion County and the Grand Jury thereof, and by the same means endeavored to obstruct and impede the due administration of justice therein.

"(d) That plaintiff, without probable cause, maliciously attempted to cause an indictment to be found, or other prosecution to be commenced, against one Charles W. Haine for receiving or accepting a bribe, or conspired with others for said purpose.

"(e) That in order to prosecute one of plaintiff's deputies, or a member of the Marion County Police Force, to-wit: Charles W. Haine, over whom plaintiff had direction and supervision, for accepting a bribe as such deputy, or as such member of the Marion County Police Force, plaintiff, by his subordinate, Felson Bowman, another deputy or member of the Marion County Police Force, corruptly and by force and threats endeavored to influence, intimidate and impede witnesses, to-wit: Robert F. Squillan and Florence Dagrossa, in a certain court of the State of Indiana, to-wit: The Criminal Court of Marion County and the Grand Jury thereof, and by the same means endeavored to obstruct and impede the due administration of justice therein." (Tr. 42; SR 32)

The answers to rhetorical paragraphs 12 of each of the 44 complaint paragraphs are identical (except for Exhibit number) and read as follows:

> "12. Admit that they published Exhibit (*) to plaintiff's complaint, but deny the remaining allegations of rhetorical paragraph 12; and allege that said publication contained a substantially true account of the matters reported therein with fair comment thereon, and that said publication was privileged and was published without malice."

The prayers of the 44 complaint paragraphs were also identical:

> "Wherefore, plaintiff prays judgment for $51,872.41 and costs."

The total damages sought were $2,282,386.04.

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* Here there was inserted in each such paragraph of answer the Exhibit number corresponding to the Exhibit number in each of the 44 complaint paragraphs to which the answer was directed.

C.

DEFENDANT'S MOTION FOR A PRETRIAL ORDER RULING INADMISSIBLE EVIDENCE OF PRIOR ILL WILL

In advance of trial defendant moved the trial court for a pretrial order ruling inadmissible evidence of prior ill will, which motion reads as follows (omitting caption and signatures):

> "Defendants herein move the Court for a pretrial order to the effect that evidence tending to show that defendants published the articles sued upon out of hatred or hostility toward the plaintiff shall not be admissible in the trial of this cause as evidence that defendants published said articles with knowledge that they were false or with reckless disregard of whether they were false or not.
>
> "As grounds for this motion defendants would show the Court the following:
>
> 1. Plaintiff in this action is complaining solely about alleged defamatory criticism of his official conduct as a public official.
>
> 2. Defamatory criticism of the official conduct of a public official is qualifiedly privileged under the First and Fourteenth Amendments to the U. S. Constitution.
>
> *New York Times* v. *Sullivan* (1964), 376 U. S. 254, 11 Law. Ed. 2d 686.
>
> 3. A public official can recover damages for such criticism if, and only if, he can prove that defendants published it either with knowledge that it was false or with reckless disregard of whether it was false or not.
>
> *New York Times* v. *Sullivan* (1964), 376 U. S. 254, 11 Law. Ed. 2d 686.

4. Evidence tending to show that the publisher of such criticism acted out of hatred or hostility toward said public official is not relevant to the issue of whether such criticism was published with knowledge that it was false or with reckless disregard as to whether if was false or not, by virtue of the First and Fourteenth Amendments to the U. S. Constitution.

Garrison v. *Louisiana* (1964), 379 U. S. 64, 13 Law. Ed. 2d 125.

5. Plaintiff's discovery in this case demonstrates that he is relying primarily, if not exclusively, upon such inadmissible evidence and that he is planning to spend weeks offering into evidence a large number of documents and the testimony of a great number of witnesses for no other purpose than to attempt to show hatred and hostility on the part of defendants toward plaintiff. If this evidence is inadmissible, as defendants believe, considerable time and expense could be saved if this Court would so rule in advance of trial.

Wherefore, defendants pray that this motion be granted." (Tr. 578; SII 97b-97c)

Such motion was overruled by the trial court. (Tr. 658; SR 98a)

D.

SUMMARY OF RECORD AS TO PRIOR ILL WILL EVIDENCE ADMITTED AND OBJECTIONS THERETO.

The following is a summary of the record below with respect to evidence of prior ill will which was admitted over defendant's objections:

That in November and December of 1964,* a heated controversy developed between Sheriff Fields and Star reporter Rick Johnson concerning Fields' policy with respect to releasing news; that on November 17, 1964, the body of a man, Lee Hynes, who had been shot to death, had been found in Big Eagle Creek in Indianapolis; that shortly afterward, the Sheriff's Department had arrested three suspects and early in the morning of November 18, 1964 had charged two of the three with murder, the third having been released as innocent; that the murder weapon had not been found until 5 a.m. that morning; that the Sheriff's Office had not released any news about the arrests and charges until after the murder weapon had been found to prevent accomplices from destroying the evidence (Tr. 6239-6241; SE 983-984); that afterward on November 18, 1964, Star reporter Johnson had telephoned Fields at his home accusing Fields of withholding news from the Star concerning the Hynes murder (Tr. 6241-6243; SE 984-985a); and that on December 3, 1964, Johnson again called Fields and in a profane and abusive manner again accused Fields of withholding information concerning two accused shoplifters at which time both lost their tempers (Tr. 6244-6245; SE 985a-986), and the following article was then published in the Star on December 4, 1964:

* The first publication sued upon was published October 27, 1965.

"Sheriff's Aide 'Silent' In Arrest of 2.

"A check last night of the names of two women arrested on shoplifting charges revealed an attempt evidently has been made to silence sheriff's office assistants who might talk to the press.

"A matron in the women's division at the Marion County Jail told a reporter for The Indianapolis Star: 'I am not permitted to speak with reporters.'

"She added, 'I am not authorized to give them any information without an OK from a higher authority.'

"Queried, Sheriff Robert H. Fields said there were 'no rules against releasing names of people in routine arrest.' He would not define 'routine,' but declared that in major cases he alone will make releases of information.

"The issue arose when the reporter sought to verify with the jail matron the names of two persons arrested about 6:10 p.m. yesterday at Ayr-Way South, 3700 South East Street, by Edward Donahue, an off-duty city policeman and special deputy.

"The sheriff's office report said that Donahue apprehended the two women after he saw them place merchandise valued at a total of $40, under their clothing and in their purses and leave the store without paying. Both face a charge of violation of the Offense against the Property Act (petit larceny) and were scheduled into Speedway Magistrate Court Monday." (Plaintiff's Exhibit 124; Tr. 4141; SE 508)

That Fields posted a notice that Johnson was banned from receiving information from the Sheriff's office; and that around midnight on December 4, 1964, Johnson called Fields at home again and that they had the following conversation:

> Well he opened the conversation, he said "This is Rick Johnson", he says "Are you serious about banning me from getting news down at the Sheriff's Office?" I said, "Yes, I'm very serious about it."

He said, "You don't think you can get away with that, do you?" I said, "Well, unless we get this thing straightened out, that's the position I'm gonna take." I says, "As a private individual, I don't intend to be talked to like that, and I don't think the public official . . . being a public official makes it necessary to take that kind of abuse from you." He says, "Well, I'm gonna keep you on the front page of the newspaper just as long as it takes." I said, "Rick, you do what you have to do, I'll do what I have to do." He said, "That's what I'm gonna do, and he says I'm gonna expose you for what you really are." I says, "Well, what is that?" He says, "You're a stooge of Noble Pearcy. I'm gonna keep you on the front page of the . . . gonna keep you in headlines on the front page as long as it takes." And hung up. (Tr. 6247-6248; SE 986-987)

That on December 5, 1964, the following article was published in The Star:

"*Sheriff's Reports Denied Reporter.*

"Sheriff Robert H. Fields yesterday ordered all news of his office withheld from a police reporter for The Indianapolis Star.

"Sheriffs' deputies refused to let reporter Rick Johnson see the investigation reports in the sheriff's office and told him that they were acting on orders of the sheriff.

"Fields admitted in a conversation with Johnson that the order was directed specifically against Johnson, although there have been indications of an increasing news blackout by the sheriff's office in recent weeks.

"Fields and Johnson clashed Nov. 18 when Johnson attempted to obtain information about the slaying of Lee S. Hynes, whose bullet-riddled body was found in Big Eagle Creek near West Tenth Street the preceding night.

"Johnson questioned the sheriff at that time on

why he withheld information on deputies picking up two suspects in the case about four hours after the slaying. The men were subsequently arrested in the slaying.

"Fields replied, 'It wasn't authorized.' He also told Johnson, 'You won't get anything on any case if there's even a slight chance it would hurt the investigation.'

"They clashed again Thursday night when Johnson attempted to check out information on two persons arrested on shoplifting charges with the jail matron.

"She told him, 'I can't give this information out without the sheriff's authorization and I'm not supposed to talk to reporters.'

"When Johnson protested this ban on information to Fields, he and the sheriff engaged in a heated debate on the telephone in the hearing of jail personnel.

"Fields said last night that his policy has always been the same, that everything is open to the press and that 'officers have been instructed to give reporters all the information they have except when such information might jeopardize an investigation.'

"Deputy sheriffs disputed that statement.

"The ban against Johnson was issued yesterday morning, Fields said, because of the heated discussion." (Plaintiff's Exhibit 126; Tr. 6265; SE 995.)

That Johnson again telephoned Fields at home around midnight on December 5, 1964, and that they had the following conversation:

Well he says, "This is Rick Johnson." He said, "I want to know . . . want to check to see if that ban on me getting news down here is still on." I says, "Yes, it certainly is." He says, "I thought you'd be interested in the fact that I'm sitting down here in the office right now going through these reports." I said, "Who's the Officer on duty?" He said, "Lieutenant French." I said, "Will you kindly put him on the telephone, I said "Does Rick Johnson have the re-

ports down there?" And he says, "Yes." I said, "He's under ban of news, so you take those reports away from him, and he's under ban." And I asked him why he gave them to him, and he said he had been on vacation and didn't know about it. He'd just went on duty that night. So I told him to put Rick back on the telephone, and he came on, and I said, "Rick, I just told French to take those reports away from you and the ban will continue until we get this thing straightened out, you are to act like a human being." And he says, "Well, I told you what I was going to do, I'm gonna keep you on the front page of the paper as long as it takes to shape you up." He said, "I want you one other thing." I said, "What's that?" And he says, "You remember what happened to your predecessor . . ." (Tr. 6248-6249; SE. 987-988)

That on December 6, 1964, the following article was published in The Star:

"*Fields' Muzzling Holds Up News.*

"Marion County Sheriff Robert H. Fields is shooting for real trouble with a policy of muzzling his employes, as illustrated by the ridiculous situation last week when a jail matron refused to give a reporter the names and similar information on two women under arrest on shoplifting charges.

"I am not permitted to speak with reporters," the dutiful employe stated. Fields claims he has told his workers they can disclose "routine" information—but naturally some of them are going to play it safe by saying nothing, when the boss has a big thing about secrecy.

"Recently, Fields' deputies did some outstanding police work, making three arrests within four hours after a beaten man's body was found in Big Eagle Creek. But he and they missed a chance to look good in the public's eye. The arrests were not disclosed that day. 'I didn't authorize it,' Fields says. (Plaintiff's Exhibit 127. Tr. 4139; SE 507-508)

That during this period (December of 1964) Fields was telling Noble R. Pearcy, Marion County Prosecutor, that Johnson was calling him at home, late at night, and claiming he couldn't get information when in fact he could (Tr. 4137; SE 507); that Johnson said to Pearcy during this period, about Fields, "I'm going to get the son-of-a-bitch and he'd better remember what happened to his predecessor; that Fields' predecessor, Sheriff James O. Hiner, had died of ulcers (Tr. 4142; SE 509); that during this period, Virginia Wilkes, the law librarian at the City-County Building, heard Johnson call Fields an S. O. B. and say that if it took a year he would get even with him (Tr. 6925-6927; SE 1115-1115a); and that during this period an Indianapolis policeman heard Johnson say, about Fields: "I'll kill the son-of-a-bitch. Politically, I'll kill him (Tr. 6696-6697; SE 1081).

That on December 7 or 8, 1964, Fields telephoned Johnson's superior at The Star, City Editor Lawrence Connor and talked to him about the controversy he was having with Johnson. Fields described this conversation as follows:

> A. He was aware of the controversy between Rick and I and aware of the fact that I had banned him from news down there and I tried to explain to him the reason for that.
>
> Q. Just tell the Jury what you said to him and what he said to you.
>
> A. Well, I told him about the Lee Hynes Murder Case and the shoplifter case, and explain my side of it, just as I've told here, and he said, he told me . . . he said, no you apparently got a policy of secrecy down there, you're not releasing news when you should, and he didn't agree that this policy that I explained to him was a proper policy, and he went right down the line . . . it was Rick Johnson's right, in the position he took with me, and at that time, that was the conversation. I concluded there was no point in continuing the conversation. (Tr. 6252; SE 989)

On December 10, 1964, the following editorial was published in The Star:

> "*A Dangerous Practice.*
>
> "Sheriff Robert Fields' decision to shut off information to a reporter for The Indianapolis Star is one of those steps backward toward 'the king can do no wrong' dictum governing official suppression of information.
>
> "Rick Johnson, the reporter, was not acting as an individual but as a representative of the press and the public when he sought the facts which Fields refused to give him.
>
> "Police officials in monarchical times refused to release information because 'the king can do no wrong.' Police authorities in modern totalitarian states such as Nazi Germany, Fascist Italy, Red Russia, Red China, Red Cuba and the captive nations refuse to release information because 'the state can do no wrong.'
>
> "The principle behind these policies is, of course, absurd. The king can do wrong. The state can do wrong. So can a sheriff.
>
> "Police authorities claim many reasons for refusing to release information. The reasons are almost always the wrong ones. Suppression often stems simply from the fact that power has an intoxicating effect on a man. It goes to his head. He wants to exercise it.
>
> "Police secrecy is to be expected in Moscow, Lenigrad, Budapest, East Berlin, Havana or Peking. It is a standard tool of dictatorship. But it is out of place in Indianapols and Marion County." (Plaintiff's Exhibit 128; Tr. 6266; SE 995-996)

That on December 19, 20 and 22, 1964 articles were published in the Star which were critical of Sheriff's Executive Officer, Major Alva Funk, for accepting a courtesy car from a local car dealer, and of Fields for saying

it was alright for him to keep it. (Tr. 6256-6260; Plaintiff's Exhibits 129, 130 and 131; SE 992-993).

That late in December, 1964, Fields and Johnson had the following conversation:

> He asked me if I was aware that Funk had worked on his vacation, during the State Fair, and I could see from his attitude that he was very belligerent with Funk and me both, and I stated "No comment". He asked me about five or six different questions . . . about Funk, if I was aware of various things, and I just answered all of his questions with no comment. After about five or six questions he stated, you're pretty God damn cocky, aren't you. I says, no, I don't think I'm cocky, but I think, you are, and I turned around and walked out of the office. (Tr. 6253; SE 990)

That on December 27, 1964, the following article was published in The Star:

> "*Funk Made His Vacation Pay.*
>
> "Alva R. Funk, Marion County Sheriff's office executive officer, managed to make his vacation pay off during 1964 to the tune of $451 by grabbing off the job of assistant traffic director during the Indiana State Fair, Aug. 27 to Sept. 9.
>
> "The first half of Funk's vacation was a non-profit sojourn to Florida with his family from June 1 to 8. But Funk quickly recouped his losses by using the second half of his allotted vacation time, plus 'accrued days off' to work at the fair.
>
> "Many deputies, questioned the fact that Funk was able to get his vacation during the State Fair, have wondered if he wasn't needed then, is he needed at all?
>
> "A few days before the discovery of Funk's paying vacation, it was learned he had ben given a 'courtesy car' by a local car dealer and had applied to the County Commissioners for free servicing.
>
> "Funk canceled the request when he learned a re-

porter was checking the tip, and the commissioners rescinded their approval of the request." (Plaintiff's Exhibit 133, Tr. 6255; SE 990-991)

That on January 10, 1965, the following article was published in The Star:

"*Sheriff's 'Brass' Not Following Rules.*

"It seems that some of the brass in Sheriff Robert M. Fields' office do not have to follow the rules that bind deputies—even on reporting accidents they have in county-owned cars.

"It was discovered last week that Capt. Bernard Gohmann of the civil office had a wreck outside the jail in October and never bothered to make out an accident report form. The driver of the other car in the accident was David Klapper, who headed the jail commissary under the late Sheriff James O. Hinor.

"Gohman said the county-owned car was not damaged, and damage to Klapper's car was $31 to $41. Insiders at the sheriff's office said normal routine would require Gohmann to make an accident report and face the department's accident review board for a determination of whether the accident was chargeable to him. Chargeable accidents can cost a deputy days off or even a suspension, one reported. 'But of course it depends who you are,' he added.

"When questioned about the accident Gohmann stated, 'I probably should have made out reports, but I sent the sheriff a memo on the incident.'" (Plaintiff's Exhibit 134, Tr. 6377; SE 1017-1018)

That on January 15, 1965, at the urging of Noble R. Pearcy, Marion County Prosecutor, a peace meeting between Fields and Johnson was held in the Columbia Club in Indianapolis, with the following result:

Well in substance he said we had this bad policy down there on news and in substance I told him that I was convinced that it was the only proper policy,

we both gave our sides of the same controversy and discussed it in a friendly manner. However, we both admitted that we previously had flown off the handle probably a little premature, our attitudes and we wanted to shake hands and I told him that even though we, in effect, we agreed to disagree on this particular matter, as long as I was satisfied that he could discuss it like a reasonable man that I told him that I'd go ahead and lift the ban on him, which I did. (Tr. 6261; SE 994-995)

That Fields then had a notice posted, lifting his ban that Johnson was banned from securing news from the Sheriff's Department. (Tr. 6669-6671; SE 1075)

That shortly after this, Deputy Sheriff Felson Bowman saw Johnson and said to him, "Well, I see you and my boss are getting along now," and Johnson replied, "Well, the son-of-a-bitch kissed the book." (Tr. 3343-3345; SE 405-405a)

That prior to the publication of the articles sued upon, during the period August 8, 1965 through October 25, 1965, the Star published numerous articles and editorials which were critical of Fields and the Sheriff's Department and which pertained to charges made by Fields that one of his deputies had taken bribes, stolen a prisoner's funds and possessed narcotics; counterchargges by the accused deputy that he had been framed and that Fields had been "used" to frame him; the vicious beating of a prisoner in the jail which had been kept secret for four weeks; the lack of records in the Sheriff's Department to reflect anything about such beating when it had finally been made public after the prisoner had died; a charge by the Sheriff's Department (within two days after the beating had been made public) that a mentally incompetent jail prisoner had been responsible for the beating and death; the theft of $1171 (being held as evidence) from a locked file

cabinet in the Sheriff's Department which had been kept secret for four months; the suspension of a deputy sheriff for breaking into the dog pound, which had been kept secret for five weeks; and the subsequent trial of the deputy accused of bribery before the Sheriff's Merit Board, the finding that he was guilty of such charges, and his discharge as a deputy sheriff. (Plaintiff's Exhibits 191, 191A, 192, 193, 194, 180, 184, 203, 204, 210A, 211, 212, 214, 215, 218, 222, 224, 225, 228, 229, 230, 231, 232, 233, 234, 235, 236; Tr. 2521-2561; SE 100a-157)

That there were some inaccurate statements in some of these articles; that the article published on August 13, 1965 (written August 12) about the loss of $1171 from the Sheriff's Department which had been kept secret since April of 1965, had stated that the matter had just been made public, when in fact Fields had reported it orally and in writing (for the first time) at a meeting of the County Council on August 10, 1965, and that another of appellant's reporters (not Johnson who had written the article about the missing money) had been present at that meeting, although it was not known whether he had heard or seen appellee Fields' report about it. (Tr. 4518-4535; SE 596-600a; Plaintiff's Exhibits 179 (Tr. 4528), 179G, pp. 20 and 21 (Tr. 4525-4526), 179G, pp. 32 and 33 (Tr. 4533-4534); Tr. 6308a-6325; SE 1005-1008); and that one of the articles pertaining to the Merit Board proceedings against the deputy sheriff for accepting bribes and stealing funds of a prisoner had not accurately reported the testimony of that prisoner at the Merit Board hearing and that the reporter (Johnson) who wrote the article had been present at the hearing during such testimony. (Tr. 7262-7268; SE 1177-1178a)

Defendant objected to all such evidence on the following ground:

"Mr. Scanlon: . . . On the question of malice, this case being brought by a public official, that malice can only be proved by the plaintiff sustaining the burden of proving that the statements contained in the articles, which are attached to the complaint, that statements contained in those articles are false, or published them in reckless disregard of truth or falsity, and that they gave rise to the meanings which plaintiff has alleged, which the defendants knew were false. . . . [M]alice can no longer be established by ill will under the New York Times case and the Garrison case and the other Supreme Court cases. . . . Such evidence would be prejudicial, not relevant and defendants therefore object. . . ."

"Mr. Jacobs: . . . [W]e must prove that the defendants published these articles on which the complaint is based with knowledge of their falsity or with a reckless disregard as to whether they were false or not. But it is not the New York Times decision that all evidence of ill will prior to the publication is admissible, the New York Times decision, not neither did the Garrison decision, deal at all with how you would prove knowledge or reckless disregard. Now its always been admissible when you're trying to show motive or state of mind, to show the relationship between the parties immediately before. It's the same as in a homicide case, if you attempt to . . . the defendant may say, why I wouldn't kill that man, he's a friend of mine, I honestly thought he was drawing a gun on me. It would certainly be admissible to show that he had ill will or threatened him before. . . . It's the same in a defamation case. The defendants are going to say why we didn't know, or we believed that was true. Now if they had ill will against the plaintiff, and expressed it, they would be more apt, it would tend to prove, they would be more willing to publish something false. The New York Times decision did not deal with the evidentiary question in any respect whatever, it simply dealt with the ultimate fact that had to be proved, that is knowledge of falsity or reckless disregard."

"Mr. Scanlon: . . . On the premalice issue, on the question of whether evidence . . . of ill will on the part of defendants toward the plaintiff is admissible, there counsel for the plaintiff and we are diametrically opposed and we sincerely and earnestly urge upon the Court that the New York Times case and the cases following it can only be interpreted to the effect that malice can only be proved by proof of knowledge of knowledge of falsity or reckless disregard and that evidence of ill will or hatred, disposition on the part of defendants toward the plaintiff, all that type of evidence that was formerly considered to be relevant to establish malice is now banned and irrelevant, prejudicial, so that on that you've got a direct conflict between the plaintiff's legal position and our legal position, and we want to make our position absolutely plain that the decisions of the Supreme Court in New York Times and following them, stand for the proposition that malice can only be proven by proof of knowledge of falsity or reckless disregard and that any introduction of any evidence with respect to ill will or hatred would be error. Now we don't want to delay the trial, but we want to make that position clear, and it will be our position in case the Court doesn't follow it on this occasion, we will continue to urge it upon the Court because we are very sincere in believing that's the law."

". . . .

"Judge: Objection overruled." (Tr. 2521-2532; SE 100a-100e)

E.

SUMMARY OF RECORD AS TO MATTERS ADMITTED INTO EVIDENCE ABOUT WHICH DEFENDANT HAD NO PRE-PUBLICATION KNOWLEDGE, AND OBJECTIONS THERETO.

The following is a summary of the record below with respect to matters admitted into evidence about which defendant had no prior publication knowledge, over defendant's objections:

Testimony that appellant had published the statements of jail prisoners about conditions in the jail without checking available court records, police records, jail records, hospital records and other records pertaining to such prisoners, without checking with other alleged witnesses to the events described, without checking with the jail deputies who had been accused of wrongdoing, and without checking with other persons, such as city policemen, jail doctors, jail chaplains and other deputies, who were in the jail from time to time. (Tr. 5003-5007; 5125-5128; 5134-5136; 5142-5144; 5314-5316; 5522-5523; 5546-5547; 5558-5559; 5635-5637; 6069-6070; 6112-6113; SE 676-678; 689d-689k; 728b-728d; 831-831a; 833-834b; 837-837a; 968-968a; 972-972a)

Copies of court records and police records (from Marion County, other counties in Indiana, and from other states) reflecting the details of the criminal records (arrests, indictments, affidavits, pleas, transcripts, convictions, probation reports, psychiatric reports, sentences, letters to the judge, etc.) of the following persons whose statements about jail conditions were published in the articles sued upon: Billy Anthony, James Daniels, Jack Dearing, James Dearing, Otto Deering, Arthur Derringer, Jimmy Green,

Charles Hembree, Forest Hester, Charles McAdams, Rodney McLean, Denzil Neville, Henry Reuter, Danny Ritzert, Robert Squillan, George Thomas and Robert Wright. (Tr. 3291; 3295; 3299; 4321; 4413; 4591-4596; 5347-5361; 5402-5446; 5560; 5796; 6160-6221; SE 397-398b; 553a-554; 569-569a; 609-609c; 616-616a; 749-749a; 774-774a; 783-785; 834a-834b; 920-920a; 979-980)

Copies of jail records reflecting reports by the Sheriff or jail deputies as to conditions in the jail, the dates various prisoners were in the jail, where they had been housed in the jail at various times, how they had conducted themselves, how and by whom they had been disciplined and why, who had visited them, telephone conversations with third persons about such prisoners, that some of such prisoners had been represented by William C. Erbecker, and other details too numerous to mention concerning such prisoners and their relationships with jail personnel. (Tr. 4225-4227; 4589-4590; 4593-4601; 4674-4678; 6341-6342; 7288-7289; 7291-7292; 7295-7296; 7298-7299; 7301-7303; SE 540b-540e; 609b-609c; 616-616a; 625c-625d; 1012a-1012b; 1181-1182c)

Testimony of deputy sheriffs and copies of jail records reflecting reports by deputy sheriffs who had arrested various jail prisoners, what had led to such arrests, their conversations with such prisoners, the conduct of the prisoners after being arrested, and other details too numerous to mention. (Tr. 4559-4563; 4568-4571; 4669-4678; SE 605-605e; 608; 624-625d)

Copies of jail records reflecting reports of deputy sheriffs who had conducted investigations of various criminal charges pending against various jail prisoners, including statements which had allegedly been taken from such prisoners and statements allegedly taken from other persons containing accusations of crime against such prisoners. (Tr. 3294-3299; SE 398b-398d)

Copies of correspondence and records of telephone calls between deputy sheriffs and former jail prisoners. (Tr. 3231-3234; 3241-3243; 3246-3249; 3258-3263; 3278-3283; SE 385-386; 388, 388c; 388f-388g; 396; 397)

Copies of hospital records reflecting reports by doctors and other hospital personnel as to when various jail prisoners had been in the hospital, their injuries, ailments and symptoms, their statements with respect thereto, the treatment they had received therefor, and the testimony of a doctor (not the author of such reports) who read, deciphered and explained such medical records where they were not legible, understandable or consisted of scientific terms, and gave his opinions with respect thereto. (Tr. 4877-4878, 5366-5367; 6764-6765; 6777-6779; SE 651-651a; 756; 1100-1101; 1101a-1101b)

Testimony from jail deputies as to their conversations with each other in the jail, as to their conversations with third persons about each other as to their conversations with jail prisoners, as to their conversations with third persons about jail prisoners, as to "difficulties" they had experienced with such prisoners, as to how they had "handled" such difficulties, as to the personal habits, peculiarities, nicknames and physical impairments of such prisoners, as to jail conditions, and that they had never seen a prisoner struck by a deputy except when it was necessary to "restrain" such prisoner. (Tr. 3842-3844; 4156-4157; 4182-4183; 4187-4195; 4200-4201; 4210-4214; 4219-4223; 4315-4317; 4332-4346; 4541-4544; 4568-4576; 4669-4673; 4683-4693; 4770-4771; 4778-4784; 6267-6269; 6271-6277; 6280-6286; 6295-6303; 6333-6334; 7522-7525; SE 463-463a; 510d-510e; 514; 515-516d; 523-523a; 533-533b; 539-540a; 552-552a; 556-559; 602-603; 608; 609-609b; 624-625b; 627-628; 639-640; 641-641d; 996-998i; 999; 1001-1003; 1011-1012; 1221-1223)

Copies of Coroner's records reflecting autopsy reports, verdicts, jail records, reports by deputies, etc., pertaining to deaths of jail prisoners. (Tr. 6905-6918; 6783-6787; SE 1112a-1113; 1103-1103a)

Testimony of third persons as to their conversations and experiences with deputy sheriffs, with jail prisoners at times when such prisoners were not in the jail, and even with other third persons. (Tr. 3018-3034; 3036-3057; 3073-3079; 3085-3090; 3270-3274; 3955-3956; 6153-6156; SE 351-357h; 390-391a; 475-475a; 977-979a)

Defendant objected to all such evidence on the following ground:

> "Mr. Scanlon: On that Your Honor has decided, apparently decided, at least evidenciary, against us because Your Honor has been allowing evidence to go in, not only on what was known, not only what we were aware of, but what we might have been aware of had we exercised some degree of care, or a degree of high care or slight care or some measure of diligence in learning something else other than what we admittedly knew. Now that is a fundamental law question which has also been raised, and I think decided, because it is our position that it is error for this Court to permit evidence to go into this record of facts that we might have learned, that the defendants might have found out, at the time they published these articles, which might have indicated falsity. Now incident to that, is the distinction which Mr. Jacobs raises, that well, while some evidence might not be admissible on the issue of knowledge of falsity, he also has the burden of proving falsity itself and it is therefore admissible on that ground. It is the defendants' position, first that if any such evidence is offered on that issue of falsity, it must be competent evidence, and hearsay evidence has been introduced on that issue, so that . . .
>
> "Judge: That is your contention that it was hearsay and you object to it on that theory?

"Mr. Scanlon: Yes, I don't know why it would be other than hearsay because, for instance, conversations between Deputy Sheriffs and other people not in the presence of the defendants, it seems to me would be hearsay.

"Judge: Well there would be very little evidence in this case, Mr. Scanlon, if all of this testimony had to be in the presence of the defendants.

"Mr. Scanlon: That's true.

"Judge: Yes, sir.

"Mr. Scanlon: I certainly agree with that. Unfortunately . . .

"Judge: It would take about two days to try it.

"Mr. Scanlon: Unfortunately Your Honor, I think that this rule of law that we have here, thus puts the plaintiff in a different position than the defendants. I'm first to admit to that.

"Judge: I still say you're aware of it.

"Mr. Scanlon: Beg pardon?

"Judge: I say you're aware of these conversations, so forth and so on.

"Mr. Scanlon: You still say that we are aware of them?

"Judge: Maybe not of the exact pieces of conversation, but of the theory of it and that the fact you are printing concerning that particular thing in your newspaper to me would indicate that you were aware of it.

"Mr. Scanlon: You mean that if we write an article then, based upon what a inmate or former inmate has told, or stated in a sworn statement, then it is Your Honor's instruction that evidence as to what that inmate told other people or what that inmate did, at the time that he is describing, is something that we we are aware of? If I understnd Your Honor?

"Judge: Go ahead . . . That's perfectly all right. If I make a mistake, I just make a mistake. That's what we've got the Supreme and Appellate Courts for." (Tr. 5011-5032; SE 678a-678j)

F.

DEFENDANT'S MOTION FOR DIRECTED VERDICTS AT THE CLOSE OF ALL THE EVIDENCE.

At the close of all the evidence, defendants filed their motion for directed verdicts, which motion, omitting caption and signatures, is as follows:

> "Come now the defendants, Eugene C. Pulliam, Eugene S. Pulliam, and Indianapolis Newspapers, Inc., an Indiana Corporation, at the close of all the evidence, reserving the right to proceed with the trial in the event this Motion is overruled, and separately and severally move the Court to direct the jury to return a verdict for the defendants, and each of them, and against the plaintiff on each of pleading paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, and 44 of plaintiff's complaint." (Tr. 703-704; 709; SR 100)

Such motion was overruled as to defendant Indianapolis Newspapers, Inc. (Petitioner) and sustained as to defendants Eugene C. Pulliam and Eugene S. Pulliam. (704; SE 100).

G.

PLAINTIFF'S FINAL ARGUMENT TO THE JURY WITH RESPECT TO THE PRIOR ILL WILL EVIDENCE AND OBJECTION THERETO.

The record below discloses that plaintiff, in his final argument to the jury, was permitted to make the following argument with respect to the prior ill will evidence, and that defendant's objection thereto and motion that it be stricken was overruled:

> "Mr. Brown: Remember the testimony about the conversations? 'I'm going to keep you on the front page as long as it take to shape you up.' Remember what happened to his predecessor?
>
> "What did happen to his predecessor? The uncontradicted evidence in this case shows that he died of ulcers. Now is there any corroboration for that statement, other than Mr. Fields? It wasn't denied by Mr. Johnson.
>
> "Remember Judge Pearcy's testimony, when he said, 'I'll get the son-of-a-bitch. He had better remember his predecessor.' Is that the kind of reporting that we're going to condone in this case?
>
> "The other conversation, as I remember it, was when they were in Major Funk's office. Mr. Johnson said, in response to questions asked of him, 'No comment. No comment. You're pretty damned cocky.'
>
> "Now what did Virginia Wilkes say? He says he can't remember but can't imagine himself saying such things, but as he stood before her desk, he said, 'I'll get the son-of-a-bitch, if it takes a year.' Do you know when that was? That was in December of 1964, and after all of this, on December 28th of 1965, don't you think he got him? Just like he told Virginia Wilkes he was going to do, one year prior. *Don't talk to me about malice in this case!*

"The significance of this evidence is this:

"Would a defendant, and I am talking about Indianapolis Newspapers, Inc., because they are chargeable with the action of Rick Johnson, would the Indianapolis Newspapers, Inc., be more likely, *with that attitude, to publish falsehoods against Sheriff Fields, than otherwise?*—I think the question answers itself.

"Now I would like to read to you what the Court will read.

"Mr. Scanlon: Pardon me. Mr. Brown, I hate to interrupt you, but, Your Honor, may I register an objection to the reference to ill will, or malice, made by Mr. Brown, and move it be stricken, and may I have a continuing objection, in case you overrule the objection and the motion.

"Court: The motion is overruled, and you have a continuing objection.

"(Mr. Brown continues:)

"Now this is what the Court will tell you the law is:

"'Evidence tending to establish that the defendant harbored ill will toward plaintiff prior to the publications in question may be considered *only* upon the issue of whether or not the defendant published the articles in question with knowledge of falsity or with reckless disregard whether they were false or not.'—This is another instruction which will be read to you by the Court." (Emphasis added) (Tr. 7643-7645; SR 147-149)

II.

THE TRIAL COURT'S INSTRUCTIONS TO THE JURY AND OBJECTIONS THERETO.

Set forth below are the trial court's instructions to the jury in this cause and defendant's objections thereto:

Court's Instruction No. 1:

> "This is an action for defamation brought by the plaintiff, Robert H. Fields, against the defendants Eugene C. Pulliam, Eugene S. Pulliam, and Indianapolis Newspapers, Inc., an Indiana Corporation. The complaint is in forty-four paragraphs." (Tr. 7602; SR 102)

Court's Instruction No. 2:

> "This is an action for libel. I will presently outline for you the issues in this case.
>
> The parties, by their pleadings have ageed that plaintiff is, by profession, an attorney-at-law and was, at all times mentioned in his complaint Sheriff of Marion County.
>
> The parties further agree that defendants Eugene C. Pulliam, Eugene S. Pulliam and Indianapolis Newspapers, Inc., are publishers of a newspaper, "The Indianapolis Star" which had, at the times mentioned in the complaint, a circulation of 225,594 each week day and 360,742 on Sunday.
>
> "Plaintiffs complaint is in 44 paragraphs and each paragraph must be separtely considered and will require a separate verdict.
>
> Each of the 44 paragraphs is based upon published matter, which the parties further agree was published on 44 separate days, in "The Indianapolis Star", and is accurately set forth in Exhibits 1 through 44 to plaintiff's complaint.

In general each paragraph of the complaint alleges that the published matter accused plaintiff of the commission of two or more of the following crimes.

1. Accessory after the fact of murder in connection with two separate incidents.

2. Malicious prosecution of one man for murder and another for accepting a bribe.

3. Intimidation of witnesses in connection with two separate incidents.

4. Aggravated assault and battery in connection with four separate incidents.

5. Assault and battery with intent to kill in connection with four separate incidents. Defendants have filed their answer to each of these 44 paragraphs of complaint denying that the published matter did accuse plaintiff of any of the crimes specified and further alleging that if they did they did so without knowledge of its falsity and not in reckless disregard of whether it was false or not. (Tr. 7602-7604; SR 102-103)

Court's Instruction No. 3:

"These are a resume of the pleadings forming the issues to be tried by you in this cause of action." (Tr. 7604; SR 103)

Court's Instruction No. 4:

"You will have the complaint and the answers directed to each paragraph thereof in the Jury Room to read for yourselves. But you are instructed that they are not to be considered by you as any evidence in this cause." (Tr. 7604; SR 104)

Court's Instruction No. 5:

"Upon the issues joined upon the complaint the burden of proving that defendants defamed plaintiff as alleged rests upon the plaintiff." (Tr. 7604; SR 104)

Court's Instruction No. 7:

"By a preponderance of the evidence is meant the greater weight of the same, and this does not necessarily depend upon the greater number of witnesses who may have testified upon a given proposition, but it does depend upon the greater weight to be given to all the evidence in the cause, as it may apply to any proposition you are considering.

If, therefore, one side or the other in this cause has had more witnesses than the other upon a given proposition or issue, this of itself, standing alone, is not necessarily the ground for deciding such proposition or issue in favor of the party presenting the greater number of witnesses as to such matter." (Tr. 7605; SR 104)

Court's Instruction No. 8:

"It is the province and duty of the Jury to find the facts from the evidence, and it is the province and duty of the Court to instruct you as to the law of the case on the facts found by you, and it is your duty to be governed by the law as the Court instructs it to be.

"The Court has not attempted to embody all the law of the case in any one instruction. Therefore, in construing any single instruction, you must construe it in connection with all other instructions given to you, and construe them in harmony with each other." (Tr. 7605-7606; SR 104-105)

Court's Instruction No. 9:

"You must determine this case upon the evidence given in this trial, and upon no other considerations whatever. You should not consider questions which have been asked and not answered, nor testimony which may have been given and then stricken out by the Court. Statements which may have been made by

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* Court's Instruction No. 6 was the instruction directing a verdict for defendants Eugene C. Pulliam and Eugene S. Pulliam at the close of all the evidence. See, *supra*, ...

counsel which are not supported by evidence must not be considered as any evidence in favor of his client." (Tr. 7606; SR 105)

Court's Instruction No. 10:

"The Court instructs the Jury that while it is necessary for the Plaintiff to offer some evidence tending to prove each material averment of his complaint, it is not necessary that such evidence shall be direct, but any fact necessary to constitute Plaintiff's cause of action may be proved by circumstantial evidence as well as direct testimony, if the Jury finds that such fact is fairly to be inferred from all the circumstances in evidence together with all the other evidence introduced tending to prove or disprove such averment." (Tr. 7606; SR 105)

Court's Instruction No. 11:

"As jurors you are not expected to lay aside matters of common knowledge or your own observations and experience in the affairs of life, but you may give effect to such inferences as common knowledge or your personal observation and experience may reasonably draw from the facts directly proved." (Tr. 7606; SR 106)

Court's Instruction No. 12:

"The party having the burden of proof upon any issue must prove the truth of such issue by a fair preponderance of all the evidence thereon. If the evidence is evenly balanced upon any issue, then you should find as to such issue against the party having the burden as to such issue, for there could be no preponderance where the evidence was evenly balanced." (Tr. 7607; SR 106)

Court's Instruction No. 13:

"In the trial of this cause, the Court does not intend to indicate to you, by any of his rulings or comments or otherwise, any opinion as to the facts in the case,

or that he has any opinion as to what facts are proven or not proven by the evidence. The facts must be determined by the Jury from the evidence, and when so determined, it is the duty of the Jury to apply the law as given by the Court and return a verdict in accordance with the law and facts as ascertained." (Tr. 7607; SR 106)

Court's Instruction No. 14:

"You are the exclusive judges of the weight of the evidence, and the credibility of the witnesses. It is your duty to consider all the evidence and determine what facts have been proven, or not proven. If you meet with conflicts in the evidence, you should, if you can reasonably and fairly do so, so reconcile them as to believe all the testimony of all the witnesses. If you cannot so reconcile the evidence, then you have the right to believe that which you think most worthy of credit, and disregard that which cannot be reasonably and fairly reconciled therewith." (Tr. 7608; SR 106-107)

Court's Instruction No. 15:

"You are instructed that the Court, by directing you to return a verdict for the defendants, Eugene C. Pulliam and Eugene S. Pulliam, does not mean to imply that the plaintiff, Robert H. Fields, has either proved or not proved any of the charges made in his complaint against the remaining defendant, Indianapolis Newspapers, Inc., but it is for you, the jury, to determine whether or not plaintiff has done so by the greater weight of the evidence." (Tr. 7608; SR 107)

Court's Instruction No. 16:

"In determining the credibility of any witness and weighing his or her testimony, it is proper for you to consider his or her appearance, conduct, and manner of testifying, while on the witness stand; whether his or her statements are reasonable or unreasonable,

consistent or inconsistent, and whether they are corroborated or contradicted by other evidence, which you deem worthy of credit; the extent of his or her intelligence, his or her knowledge and means of knowing of the matters stated; the attention he or she gave to such matters, and his or her recollection thereof, whether good or bad; his or her interest in the result of this cause, if any, and the nature and extent of it; whether or not he or she has any feeling, bias or prejudice for or against the plaintiff or the defendants. And any other fact or circumstance, shown by the evidence, which from your experience and observation, you believe will aid you in arriving at the truth in this cause, may be considered, and given such weight as you think it is justly entitled to." (Tr. 7609; SR 107-108)

Court's Instruction No. 17 (Defendant's Tendered Instruction No. 1):

"It is the law, and I so instruct you, that every citizen, including a newspaper publisher, has a qualified privilege, conferred by the Constitution, to discuss and criticize the official conduct of public officials. This is a fundamental right of citizenship in a democracy, which is possessed by all citizens alike and which may be exercised with respect to any public official, including a county sheriff or any deputy sheriff.

The citizen's privilege to discuss and criticize the official conduct of public officials is not limited merely to statements which are true. Such privilege also includes the right to make false and defamatory statements about the official conduct of public officials, so long as the citizen, at the time he makes such statements, does not make them with actual malice, that is, with knowledge that they are false or with reckless disregard of whether they are false or not.

You are instructed that each and every one of the newspaper articles and editorials attached to the complaint in this action, in so far as they pertain to plaintiff at all, do so only with respect to his official conduct

as sheriff of Marion County and thus as a matter of law are qualifiedly privileged publications under the Constitution. Therefore, before plaintiff can recover damages in this action for any of such articles and editorials, on the ground that they impliedly accused him with having committed one or more of the alleged crimes, he must first prove as to such article or editorial each of the following:

"1. That it accused him personally with having committed one or more of the alleged crimes;

2. That said accusation as well as the statement or statements giving rise thereto were false; and

3. That said accusation as well as the statement or statements giving rise thereto were published by defendants with actual malice, that is, with knowledge that they were false or with reckless disregard of whether they were false or not.

If, with respect to any article or editorial attached to plaintiff's complaint, you find from all the evidence that plaintiff has failed to prove any one of these elements, then I instruct you that plaintiff cannot in this action recover damages as to that article or editorial." (Tr. 7609-7611; SR 108-109)

Court's Instruction No. 18 (Plaintiff's Tendered Instruction No. 1):

"The law of libel insofar as it is applicable to this cause may be defined as a malicious publication charging another with an offense punishable by indictment.

Malicious publication insofar as same is applicable to this cause is a publication of falsehood made with knowledge that it was false or with reckless disregard of whether it was false or not.

If you find it to be a fact, that the articles sued upon, or any of them, contained criticisms or false statements against the Marion County Sheriff's Department such would not preclude the plaintiff from recovering if the facts otherwise warrants his recovery

under the law as stated in these instructions." (Tr. 7611; SR 109)

Defendant's Objections to Court's Instruction No. 18 (Plaintiff's Tendered Instruction No. 1):

"The defendant objects to Instruction No. 1 tendered by the plaintiff, on the ground that the first and second paragraphs thereof, each respectively, invades the province of the Jury by implying that (1) libel is in this case, and (2) that malicious publication is in this case, and I object to the third paragraph of said instruction for the reason that the paragraph is ambiguous and invades the province of the Jury in that the current summation of the complaint is overloaded with [claims of] accusations against the plaintiff personally in the publications." (Tr. 7629; SR 122)

Court's Instruction No. 19 (Defendant's Tendered Instruction No. 2):

"Having elected to allege in his complaint that the publications complained of accused him either directly or by implication of certain specified crimes, and of those crimes only, plaintiff is bound by that election and cannot claim that said publications accused him of some other crime or crimes not alleged in his complaint, or that said publications libeled him in some other respect not alleged in his complaint. You are not to speculate as to whether any of the publications may have libeled the plaintiff in some other or different respect." (Tr. 7612; SH 110)

Court's Instruction No. 20 (Plaintiff's Tendered Instruction No. 2):

"Only those false statements made with the high degree of awareness of their probable falsity may be the subject of civil libel. Even though publications are used as a tool for political ends, does not automatically bring it under the protective mantle of the constitution. The use of the known lie as a tool is at once at odds with the premises of democratic gov-

ernment and with the orderly manner in which economic, social, or political change is to be affected. Known falsehoods fall into that class of utterances which are no essential part of any exposition of ideas and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality. Hence the knowingly false statement made with reckless disregard of the truth does not enjoy constitutional protection." (Tr. 7612-7613; SR 110)

Defendant's Objections to Court's Instruction No. 20 (Plaintiff's Tendered Instruction No. 2):

"The defendant objects to Instruction No. 2 tendered by the plaintiff, to the second sentence of such instruction, which reads, 'Even though publications are used as a tool for political ends, does not automatically bring it under the protective mantle of the constitution,' in that it invades the province of the Jury, is argumentative, does not leave to the Jury to decide whether there are any such publications as shown by the evidence in this case.

The defendant objects to the third sentence, which reads, 'The use of the known lie as a tool is at once at odds with the premises of democratic government and with the orderly manner in which economic, social, or political change is to be effected,' in that it invades the province of the Jury, implying to the Jury that there is the use of the known lie as a tool. This sentence, as well as the prior sentence objected to, are abstract statements which are not applicable to this case, or at least it is not left to the fact finders to determine whether or not these principles are applicable.

The defendant objects to the third sentence of the instruction, which reads, 'Known falsehoods fall into that class of utterances which are no essential part of any exposition of ideas and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality,' for the reason, (1) it is

the defendant's position that the publications made the basis of the complaint refer to the Sheriff's Department, and as they refer to the Sheriff's Department, the issue which is to be determined by the triers of the fact then, even if they did contain false statements, or, as the instruction calls it, 'known falsehoods', there could be no liability; whereas this sentence implies to the contrary.

(2) This sentence invades the province of the Jury by implying that known falsehoods are in this case or has been established by the evidence, rather than leaving that matter to the fact finders; and

Thirdly, this sentence is not the law.

The defendant objects to the last sentence of Instruction No. 2, which reads, 'Hence the knowingly false statement made with reckless disregard of the truth does not enjoy constitutional protection,' for the same reasons as cited to the sentence last discussed of such instruction.

Generally, the defendant objects to the entire instruction for the reasons stated above specifically as to the sentence thereof and also because it is an entire argument and attempt to state abstract principles of law which have no application in this case and invades the province of the jury." (Tr. 7629-7631; SR 122-124)

Court's Instruction No. 21 (Defendant's Tendered Instruction No. 3):

"To sustain his burden of proving that any article or editorial attached to his complaint accused him personally with having committed one or more of the alleged crimes, plaintiff must prove that and not merely that such an accusation was made against the sheriff's department or against someone with whom the plaintiff was associated or for whose conduct he was responsible as the head of his department.

Every citizen, including the publisher of a newspaper has an absolute right to make any accusation he chooses against the government, as such, or against any department of government, as such, including a sheriff's department." (Tr. 7613; SR 111)

Court's Instruction No. 22 (Plaintiff's Tendered Instruction No. 3):

"You are instructed that the defendant Indianapolis Newspapers, Inc., is a corporation and that a corporation can act only through its publishers, officers, agents and employees. Therefore the defendant Indianapolis Newspapers, Inc. would be responsible for the acts of its publishers, officers, agents and employees when such acts were committed while such publishers, officers, agents or employees were acting within the scope of their employment.

You are further instructed that knowledge learned or gained by a publisher, officer, agent or employee of said defendant while acting in the scope of their employment, is the knowledge of the defendant, Indianapolis Newspapers, Inc." (Tr. 7614; SR 111)

Court's Instruction No. 23 (Defendant's Tendered Instruction No. 4):

"In determining whether plaintiff has sustained his burden of proving that he was personally accused with having committed one or more of the alleged crimes, I instruct you that the articles and editorials referred to in each paragraph of complaint must be read fairly and as a whole. Sentences or phrases or headlines must not be taken out of context but may be considered in judging the article. The language used must be given the meaning which it would be given by the ordinary reader, not necessarily the meaning given it by the plaintiff, or by the defendants, or by any particular witness or witnesses. The publications are not to be read from the standpoint of a mind trained in technicalities, but from the standpoint of their effect upon the mind of the average reader." (Tr. 7614-7615; SR 112)

Court's Instruction No. 24 (Plaintiff's Tendered Instruction No. 4):

"Reckless disregard of truth describes the state of mind of one who publishes an untruth with such knowl-

edge of existing facts and circumstances refuting such untruth, as to evince an abandonment of any care for the rights of others and a heedless indifference to the wrongful injury which is likely to result from such publication." (Tr. 7615; SR 112)

Defendant's Objections to Court's Instruction No. 24 (Plaintiff's Tendered Instruction No. 4):

"The defendant objects to Instruction No. 4 tendered by the plaintiff for the reason that it invades the province of the Jury and because it states that the question of 'reckless disregard of truth' is a standard to be determined by 'care' or a failure to use care, implying that the reckless failure to secure information which may have been available to the defendant at the time of the publications would constitute reckless disregard, or the publishing of the statement without exercising care to learn facts or information which may have been available to the defendant in the exercise of care, it being the defendant's position that under the law, reckless disregard of the truth is defined as an 'awareness of a high degree of probable falsity,' and therefore is a matter of knowledge at the time of the publication, it being the defendant's position that the plaintiff has the burden of proving either actual knowledge of the falsity, or knowledge of such facts that indicate such a high degree of probable falsity, that to publish the statement would constitute reckless disregard of the truth, and the standard cannot be what the defendants might have learned had they exercised care." (Tr. 7631-7632; SR 124)

Court's Instruction No. 25 (Defendant's Tendered Instruction No. 5):

"To sustain his burden of proving falsity, plaintiff must not only prove the falsity of any implied accusation of crime made against him, but he must also prove the falsity of the statement or statements in the publication which gave rise to said implied accusation." (Tr. 7615; SR 112)

Court's Instruction No. 26 (Plaintiff's Tendered Instruction No. 5):

"In resolving the issue of reckless disregard of the truth, as same is applicable to this cause, you may give due consideration to the facts you find the defendant knew at the time of any such publication together with all other circumstances such as the reliability or lack of reliability of its informants the sources of additional information available to defendant and known, by it, to be available." (Tr. 7616; SR 113)

Defendant's Objections to Court's Instruction No. 26 (Plaintiff's Tendered Instruction No. 5):

"The defendant objects to Instruction No. 5 tendered by the plaintiff, in that it implies in its opening that the issue of reckless disregard of the truth should be faced by the Jury and therefore invades the province of the Jury. The case may be disposed of by the Jury on the ground urged by defendant, that the articles in question refer solely to the Sheriff's Department, and the Jury may not have reached the issue of reckless disregard of the truth.

"The defendant further objects to Instruction No. 5 for the reason that it states an erroneous theory of law in that it states that in determining the issue of reckless disregard, the Jury may consider the facts that it finds the defendant knew at the time of any such publication, 'together with all other circumstances such as the reliability or lack of reliability of its informants, the sources of additional information available to defendant and known by it to be available,' for all the reasons stated in objections to Instruction No. 4; that the test is not what the defendants may have learned in the exercise of care, or as this instruction states it, 'what additional information may have been available to the defendant;' the sole test which the Jury may apply is the defendant's knowledge of the awareness, which terms the defendant believes to be synonymous and therefore must be what the proof has

established, that the defendants knew either as to the falsity or a high degree of falsity.

The instruction, therefore, speaks of an erroneous theory of law, which theory of law the Court has applied in ruling on the evidence throughout the case, in allowing evidence to be admitted over the objection of the defendants, which evidence was offered to show what information may have been available to defendants, had the defendants made investigation of various cases." (Tr. 7632-7633; SR 124-125)

Court's Instruction No. 27 (Defendant's Tendered Instruction No. 6):

"To sustain his burden of proving actual malice, plaintiff must prove that defendants published both the implied accusation and the statement or statements giving rise thereto either with knowledge that they were false or with reckless disregard of whether they were false or not.

Knowledge of falsity means actual knowledge at the time of publication that a statement was in fact false.

Reckless disregard as to truth or falsity means a high degree of awareness at the time that a statement is probably false." (Tr. 7616; SR 113)

Court's Instruction No. 28 (Plaintiff's Tendered Instruction No. 6):

"Plaintiff has the burden of proving,

First that the publications accused plaintiff of the crimes he alleges, to-wit:

1. Accessory after the fact of murder in connection with two separate incidents.
2. Malicious prosecution of one man for murder and another for accepting a bribe.
3. Intimidation of witnesses in connection with two separate incidents.
4. Aggravated assault and battery in connection with four separate incidents.
5. Assault and battery with intent to kill in connection with four separate incidents.

In resolving this issue it is not necessary that plaintiff be so charged by the article in question is that precise language required in a criminal indictment or affidavit. Each article must be judged when read as a whole by the ordinary reader, taking into account the headlines, emphasis and any light cast upon it by preceding publications if shown by the evidence.

Second: That the accusations were false.

Third: That defendant knew said accusations were false or published them with a reckless disregard of truth.

In resolving the last two issues the evidence tending to prove falsity may not necessarily tend to prove knowledge or reckless disregard. Only that evidence tending to prove falsity of which defendant was aware should be considered upon the issue of defendant's knowledge of falsity or reckless disregard of truth." (Tr. 7617-7618; SR 113-114)

Defendant's Objections to Court's Instruction No. 28 (Plaintiff's Tendered Instruction No. 6):

"The defendant objects to Instruction No. 6 tendered by the plaintiff, and specifically to the paragraph after the listing of the five enumerated crimes, for the reason that the Court in this instruction, and in any other instruction, tells the Jury what it is necessary to find; whereas in this instruction the Court tells the Jury what it is not necessary to find, in order to find that the plaintiff has been charged by the defendants with one of the criminal acts enumerated;

For the additional reason that there is no evidence that any reader read all of such articles, except evidence entered over objection, or on rebuttal.

The defendants further object to Instruction No. 6 for the reason that the instruction fails to tell the Jury that in this case, where the plaintiff has not based its complaint or defamation on statements contained in the publication, but has elected to base his claim on the ground of certain meanings or innuendos charging him with crime, the burden, the defendants assert, is on

the plaintiff to prove that (1) the accusations of crime are implied by statements contained in the publications; that those statements themselves were published with knowledge of falsity or with reckless disregard of the truth or falsity, and that the accusations themselves were false and were known to be false, or probably false, at the time of the publication in question.

Defendants further object to the Instruction No. 6 in that the plaintiff also has the burden of proving that the publications allegedly accusing plaintiff of the crime or crimes listed, contained the elements of each particular crime, all of which is not stated in the instruction." (Tr. 7633-7635; SR 125-126)

Court's Instruction No. 29 (Defendant's Tendered Instruction No. 8):

"In determining whether plaintiff has sustained his burden of proving that defendants published any accusation or statement concerning the plaintiff with knowledge that it was false or probably false, I instruct you that the fact, if you find it to be a fact, that defendants published accusations or statements made by persons with criminal records or by persons of ill repute, would not in itself be sufficient to establish knowledge of falsity or probable falsity on the part of defendants." (Tr. 7618; SR 114-115)

Court's Instruction No. 30 (Plaintiff's Tendered Instruction No. 8):

"Evidence tending to establish that the defendant harbored ill will toward plaintiff prior to the publications in question may be considered only upon the issue of whether or not the defendant published the articles in question with knowledge of falsity or with reckless disregard whether they were false or not." (Tr. 7618; SR 115)

Defendant's Objections to Court's Instruction No. 30 (Plaintiff's Tendered Instruction No. 8):

"The defendant objects to Instruction No. 8 tendered by the plaintiff, for the reason that (1) it is the defendant's position and has been throughout the trial that evidence of ill will is not to be considered by the Jury for any purpose, and the Court has permitted such evidence of ill will to be admitted without restricting its application, and the plaintiff's evidence having consummated almost eight weeks, it would be impossible now for the Court to give any instruction limiting the application of such evidence of ill will to the issue of reckless disregard.

It is the defendant's position that the trial has proceeded on an erroneous theory of law, if evidence of ill will is admissible, it being the defendant's position that in a defamation suit of this character, malice can be proved in only one way, that is, by evidence of knowledge of falsity, or reckless disregard, both of which depend on evidence of knowledge." (Tr. 7635-7636; SR 127.)

Court's Instruction No. 31 (Defendant's Tendered Instruction No. 10):

"There have been a number of other newspaper articles admitted into evidence in this case, some published before and some published after those articles attached to the complaint. Those other articles are not the basis of this action. Plaintiff has not claimed that he was libeled by any of them and you may not award plaintiff any damages as a result of their publication." (Tr. 7619; SR 115)

Court's Instruction No. 32 (Plaintiff's Tendered Instruction No. 7):

"There was, at all times mentioned in the complaint, in full force and effect a statute of the State of Indiana which reads as follows:

"If any person shall maliciously and without probable cause attempt to cause an indictment to be found, or other prosecution to be commenced against any person for any crime or misdemeanor; or if two (2) or more persons shall conspire together for such purpose, the person so sought to be indicted or otherwise prosecuted being innocent, such person or persons so offending, shall, on conviction, be fined not more than one thousand dollars ($1,000), to which may be added imprisonment in the county jail not less than ten (10) days nor more than six (6) months."

The above statute defines an offense punishable by indictment.

There was, at all times mentioned in the complaint, in full force and effect a statute of the State of Indiana which reads as follows:

"Whoever, corruptly, or by force or threats, or threatening letters, endeavors to influence, intimidate or impede any juror, witness or officer in any court of this state, in the discharge of his duty, or by threats or force, obstructs or impedes, or endeavors to obstruct or impede, the due administration of justice therein, shall, on conviction be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500), to which may be added imprisonment in the county jail not less than ten (10) days nor more than sixty (60) days."

The above statute defines an offense punishable by indictment.

There was, at all times mentioned in the complaint, in full force and effect a statute of the State of Indiana which reads as follows:

"Whoever with intent to kill another human being perpetrates an assault or assault and battery upon the other human being, shall upon conviction, be imprisoned in the state prison for not less than two (2) nor more than fourteen (14) years."

The above statute defines an offense punishable by indictment.

There was, at all times mentioned in the complaint, in full force and effect a statute of the State of Indiana which reads as follows:

> "Whoever intentionally or knowingly and unlawfully inflicts great bodily harm or disfigurement upon another person is guilty of aggravated assault and battery and upon conviction shall be imprisoned in the state prison for not less than one (1) year nor more than five (5) years, to which may be added a fine in any amount not to exceed one thousand dollars ($1,000)."

The above statute defines an offense punishable by indictment.

There was, at all times mentioned in the complaint, in full force and effect a statute of the State of Indiana which reads as follows:

> "Every person not standing in the relation of husband or wife, parent or child, to any person guilty of any felony, who shall, after the commission of such crime, harbor, conceal or assist such offender, with intent that he shall escape from detection, capture, arrest or punishment, shall be deemed an accessory after the fact, and may be charged, indicted, tried, convicted and punished, though the principal be neither charged, indicted, tried nor convicted; and, on such conviction, he shall suffer the same punishment and penalties as are prescribed by law for the punishment of the principal. But in such charge the offense committed by the principal offender shall be stated, and it shall therein be charged that the accessory did so harbor, conceal or assist such offender, with intent that he should escape detection, arrest, capture, or punishment."

The above statute defines an offense punishable by indictment.

In determining whether or not the publications in

question accused plaintiff of the commission of the offenses plaintiff alleges they did, the words used in said publications are to be understood in their plain and natural sense, according to the meaning they convey." (Tr. 7619-7621; SR 115-117)

Defendant's Objections to Court's Instruction No. 32 (Plaintiff's Tendered Instruction No. 7):

"The defendant objects to plaintiff's tendered Instruction No. 7 for the reason that the statute cited in said instruction pertaining to assault and battery with intent to kill, and the statute cited therein pertaining to aggravated assault, do not specify an offense based upon acquiescence in the conduct of another, which is the basis of the alleged accusations in plaintiff's complaint, and the only one." (Tr. 7635; SR 126)

Court's Instruction No. 33 (Plaintiff's Tendered Instruction No. 9):

"If you find from the evidence that the plaintiff is entitled to recover on any or all paragraphs of complaint, it will then be your duty to assess the amount of damages which, in your judgment, he should recover on each such paragraph of complaint. In assessing such damages you may take into consideration the mental suffering, if any, produced by the publication of the alleged accusations, and the injury, if any, to the plaintiff's character and reputation, which the evidence shows he has sustained as a proximate result of the publication of the alleged accusations. And you should assess his damages at such a sum as, in your judgment, will compensate him for the injuries, if any, as the proximate result of such alleged accusations, if any, as shown by the evidence." (Tr. 7621-7622; SR 118)

Defendant's Objections to Court's Instruction No. 33 (Plaintiff's Tendered Instruction No. 9):

"The defendant objects to Instruction No. 9 tendered by the plaintiff, on damages, (1) because it permits the Jury to consider mental sufferings, an element of damage not alleged, there being no evidence to indicate any mental suffering and there being no evidence to indicate that the plaintiff has sustained any damage, any mental suffering, any damage to his reputation, as a proximate result of the publication of the articles sued upon.

The defendant further objects to the giving of plaintiff's tendered instruction No. 9 for the reason that the evidence as to damages in the lawsuit most favorable to the plaintiff is that there has been a change in plaintiff's reputation since the publication of the articles in question, but there is no evidence showing that the alleged change in reputation is a direct or proximate result of the publications in question, so that there has been a complete failure of proof of any causal connection between the change in reputation and the publication of the articles.

Defendant further objects to Instruction No. 9 tendered by the plaintiff, because it invades the province of the Jury in that it implies that the 'alleged accusations were made, not leaving it to the Jury to make that determination." (Tr. 7636-7637; SR 127-128)

Court's Instruction No. 34 (Defendant's Tendered Instruction No. 11):

"I further instruct you with regard to the measure of the plaintiff's damages, if there is to be a recovery in this case. I do not mean, however, to intimate in any way that there is or is not any right to recover in this case. That is a question solely for you to determine, from the law and the evidence.

Plaintiff's only claim as to damages in each paragraph of his complaint is that his good reputation was

ruined by the publication of the articles and/or editorials attached to that paragraph of complaint.

In determining the amount of damages to be awarded plaintiff, if any, as to each paragraph of complaint, you can only assess damages with respect to the type of injury claimed, to-wit, injury to the plaintiff's reputation in the community which you find to have been proximately caused by the publication of the article or articles attached to that paragraph of complaint.

The plaintiff can demand any amount he chooses. The mere fact that he demands damages does not mean that he is entitled to the amount demanded or for that matter to any amount. The amount of the plaintiff's damages, if any, is for you to determine.

Plaintiff is not entitled to recover any damages in this action on the theory that defendants' publications were responsible for his not being elected to another term of office as sheriff of Marion County.

Neither is plaintiff entitled to recover any special damages on the theory that defendants' publications were responsible for his losing any particular employments, fees or income as a lawyer after leaving the office of sheriff. The plaintiff has made no claim for such damages in his complaint." (Tr. 7622-7623; SR 118-119)

Court's Instruction No. 35:

"If you find from the evidence and the instructions given you by the Court that the plaintiff should recover on any one or more of the paragraphs of complaint in this cause of action, it will be your duty to assess the amount of damages which in your judgment he should recover on such paragraph or paragraphs of complaint, if any. And you are further instructed that the plaintiff is not entitled to recover from the defendant, Indianapolis Newspapers, Inc., An Indiana Corporation, a sum in excess of $51,782.41 on any one paragraph of complaint.

If you should find that the plaintiff should not re-

cover any sum of money in this cause, then you should find for the defendant on each paragraph of complaint." (Tr. 7623; SR 119)

Court's Instruction No. 36:

"When you retire to your jury room to deliberate upon your verdict, appoint one of your members as Foreman. It will be his duty to sign your verdict when agreed upon. When your verdict shall have been signed, return it into open Court." (Tr. 7624; SR 119)

I.

DEFENDANT'S TENDERED INSTRUCTIONS WHICH WERE REFUSED BY THE TRIAL COURT.

The following instructions were tendered by defendant and refused by the trial court:

Defendant's Tendered Instruction No. 7:

> "In determining whether defendants published any accusation or statement concerning the plaintiff with knowledge that it was false or with reckless disregard of whether it was false or not, I instruct you that the fact, if you find it to be a fact, that one or more of defendants' employees may have disliked or harbored ill will toward the plaintiff or may have made threats against him is completely irrelevant and is not to be considered by you in determining whether plaintiff has sustained his burden of proving that defendants published any accusation or statement concerning the plaintiff with knowledge that it was false or with reckless disregard of whether it was false or not." (Tr. 7595; SR 120).

Defendant's Tendered Instruction No. 9:

> "In determining whether defendants published any accusation or statement concerning the plaintiff with reckless disregard of whether it was false or not, I instruct you that defendants had no duty to check the accuracy or truthfulness of any accusation or statement before publishing it, whether it was made by a third person or by defendants. The fact, if you find it to be a fact, that defendants may have failed to make some investigation or check some record which plaintiff feels should have been made or checked before publishing such an accusation or statement is completely irrelevant. The question is not whether defendants were negligent or reckless in failing to

check the accuracy of what they published. The question is—did defendants at the time have actual knowledge that what they were publishing was false or so probably false that such publishing constituted reckless disregard of their own knowledge concerning the truth.'" (Tr. 7596-7597; SR 120-121)

Defendant duly tendered said instructions in writing and moved and requested the court to give such instructions to the jury, after the evidence was concluded and before argument. (Tr. 704; 7590; SR 121a)

J.

CHART SUMMARIZING TRIAL COURT VERDICTS AND JUDGMENTS ON EACH OF 44 COMPLAINT PARAGRAPHS.

(Tr. 3-101; 713-725; SR 1-90; 128-136.)

The following chart reflects, as to each of the 44 Complaint Paragraphs and Exhibits, the date of publication, the meanings alleged with respect thereto, and the verdict of the jury and judgment of the trial court rendered thereon.

Month	Publication Date (1965)	Complaint Paragraph & Exhibit	Alleged Accusations of Crime: 1 Reagan Death	2 Derringer Beating	3 Dearing Beating	4 Neville and "Old Man" Beatings	5 Green and "Old Man" Beatings	6 Haine Prosecution for Bribery	7 Reagan—Crick Deaths	8 Crick Death	Defendant's Verdicts and Judgments	Plaintiff's Verdicts and Judgments
October.	27	One	X								X	
	28	Two	X	X							X	
	29	Three	X	X							X	
	30	Four	X	X							X	
	31	Five		X.	X						X	
November.	1	Six	X	X							X	
	2	Seven	X			X	X				X	
	3	Eight	X					X			X	
	4	Nine	X					X			X	
	5	Ten	X					X			X	
	6	Eleven	X								X	
	7	Twelve	X									X ($10,000)
	8	Thirteen	X								X	
	9	Fourteen	X									X ($10,000)
	10	Fifteen							X		X	
	11	Sixteen						X		X	X	
	12	Seventeen						X		X	X	
	13	Eighteen							X			X ($10,000)
	14	Nineteen							X		X	
	15	Twenty							X			X ($10,000)
	16	Twentyone							X		X	
	17	Twentytwo							X		X	
	18	Twentythree							X		X	
	19	Twentyfour							X		X	
	20	Twentyfive							X		X	
	21	Twentysix							X		X	
	22	Twentyseven							X		X	
	23	Twentyeight						X			X	
	24	Twentynine							X		X	
	25	Thirty							X		X	
	26	Thirtyone						X	X		X	
	27	Thirtytwo							X		X	
	28	Thirtythree							X		X	
	29	Thirtyfour							X		X	
	30	Thirtyfive							X		X	
December.	1	Thirtysix						X			X	
	3	Thirtyseven							X			X ($10,000)
	11	Thirtyeight							X		X	
	15	Thirtynine							X		X	
	18	Forty							X			X ($10,000)
	23	Fortyone							X		X	
	24	Fortytwo							X		X	
	26	Fortythree							X		X	
	28	Fortyfour						X	X		X	

K.

DEFENDANT'S MOTION FOR NEW TRIAL AND MEMORANDUM IN SUPPORT THEREOF.

(Tr. 770-2057; SR 136-151.)

Defendant's motion for new trial and memorandum in support thereof, timely filed (within 30 days after the verdicts were returned and filed), was as follows (omitting caption and signatures):

"MOTION OF DEFENDANT INDIANAPOLIS NEWSPAPERS, INC. FOR NEW TRIAL.

"Defendant Indianapolis Newspapers, Inc., in the above entitled cause, moves the Court for a new trial herein on each of the following grounds:

"1. Irregularity in the proceedings and orders of the Court by which defendant was prevented from having a fair trial in this, to wit:

"a. The Court erred in overruling defendants' motion for a pretrial order ruling inadmissible evidence by plaintiff tending to show that defendant published the articles sued upon out of hatred or hostility toward the plaintiff.

"b. The Court erred in denying to defendant the right to subpoena and to inspect and examine the books and records of the law firm of Lewis and Fields.

"2. The damages assessed are excessive.

"3. Each of the verdicts of the jury on paragraphs 12, 14, 18, 20, 37 and 44 of the complaint is not sustained by sufficient evidence.

"4. Each of the verdicts of the jury on paragraphs 12, 14, 18, 20, 37 and 44 of the complaint is contrary to law.

"5. None of the verdicts of the jury in favor of the plaintiff on paragraphs 12, 14, 18, 20, 37 and 40 of the complaint is a true verdict because each is legally inconsistent with each of the verdicts of the jury in favor of the defendant on paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 15, 16, 17, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 41, 42, 43 and 44 of the complaint, for the reason that if the plaintiff was not entitled to recover on each of the 38 paragraphs of complaint on which a verdict was rendered for defendant, then the plaintiff was not entitled to recover on paragraphs 12, 14, 18, 20, 37 and 40 of the complaint.

"6. None of the verdicts of the jury in favor of the plaintiff on paragraphs 12, 14, 18, 20, 37 and 40 of the complaint is a true verdict because each is a compromise verdict, each of such verdicts being legally inconsistent with each of the verdicts for the defendant on paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 15, 16, 17, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 41, 42, 43 and 44 of the amended complaint.

"7. Error of law occurring at the trial as follows:

"7a through 7yy: [Note: The motion for new trial, under this specification of error, specified 160 alleged errors of the trial court in ruling on evidentiary matters, including the alleged erroneous admission, over proper objection, of the prior ill will evidence (summarized, *supra*, at pp. A185-197), and the alleged erroneous admission, over proper objection, of the evidence pertaining to matters about which defendant had no prepublication knowledge (summarized, *supra*, at pp. A198-202). This material, consisting of approximately 1200 transcript pages, is too voluminous to be included herein and may be found at Tr. 770-2057.]

"7zz. The court erred in overruling the objection and motion to strike of the defendant to the

following argument by counsel for the plaintiff in his closing argument to the jury, which argument objection, motion to strike, and the ruling of the court thereon are in the following words:

[In the closing argument of Warren Brown (attorney for the plaintiff)]:

"'Mr. Brown: Remember the testimony about the conversations? 'I'm going to keep you on the front page as long as it takes to shape you up!' Remember what happened to his predecessor?

"What did happen to his predecessor? The uncontradicted evidence in this case shows that he died with ulcers. Now is there any corroboration for that statement, other than Mr. Fields? It wasn't denied by Mr. Johnson.

"Remember Judge Pearcy's testimony when he said, 'I'll get the son of a bitch. He had better remember his predecessor!' Is that the kind of reporting that we're going to condone in this case?

"The other conversation, as I remember it, was when they were in Major Funk's office. Mr. Johnson said, in response to questions asked of him. 'No comment. No comment. You're pretty damned cocky.'

"Now what did Virginia Wilkes say? He says he can't remember but can't imagine himself saying such things, but as he stood before her desk, he said, 'I'll get the son of a bitch, if it takes a year.' Do you know when that was? That was in December of 1964, and after all of this on December 8th of 1965, don't you think he got him? Just like he told Virginia Wilkes he was going to do, one year prior. Don't talk to me about malice in this case!

"This significance of this evidence is this:

"Would a defendant, and I am talking about Indianapolis Newspapers, Inc., because they are chargeable with the action of Rick Johnson, would the Indianapolis Newspapers, Inc., be more likely, with that attitude, to publish falsehoods against

Sheriff Fields, than otherwise?—I think the questions answers itself.

"Now I would like to read to you what the Court will read.

"Mr. Scanlon: Pardon me. Mr. Brown, I hate to interrupt you, but, Your Honor, may I register an objection to the reference to ill will, or malice, made by Mr. Brown, and move it be stricken, and may I have a continuing objection, in case you overrule the objection and the motion.

"Court: The motion is overruled, and you have a continuing objection.

"(Mr. Brown continues:).

"Now this is what the Court will tell you the law is:

"'Evidence tending to establish that the defendant harbored ill will toward plaintiff prior to the publications in question may be considered only upon the issue of whether or not the defendant published the articles in question with knowledge of falsity or with reckless disregard whether they were false or not.'—This is another instruction which will be read to you by the Court."

"7aaa. The Court erred in refusing to give to the jury at the request of the defendant each of the written instructions tendered and requested by the defendant and numbered 7, 9, 12, 13, 14, 15 and 16. This ground and reason is assigned separately and severally as to each of such instructions tendered by the defendant and refused by the Court.

"7bbb. The Court erred in giving to the jury at the request of the plaintiff each of plaintiff's instructions numbered 1, 2, 3, 4, 5, 6, 7, 8 and 9 and to the giving of each of which instruction the defendant duly objected within the proper time by filing written objections to each of said instructions after the Court had indicated the instructions it would give to the jury. This ground and

reason is assigned separately and severally as to each of such instructions tendered by the plaintiff and given by the Court.

"8. The Court erred in overruling defendant's motion, made at the close of plaintiff's evidence, o instrtct the jury to return a verdict for the defendant.

"9. The court erred in overruling defendant's motion, made at the close of all the evidence, to instruct the jury to return a verdict for the defendant.

"10. The Court erred in overruling defendant's motion for summary judgment addressed fo each of the 44 separate paragraphs of plaintiff's amended complaint.

MEMORANDUM.

"Each of the verdicts of the jury on paragraphs 12, 14, 18, 20, 37 and 40 of the amended complaint is not sustained by sufficient evidence in each of the following particulars:

"1. There is insufficient evidence to show that any of the publications on which said paragraphs of complaint are based contained any statement or statements which give rise to any accusation that plaintiff, as Sheriff of Marion County, Indiana, and as distinguished from his deputies or the sheriff's department, had personally committed any of the crimes alleged in said paragraphs of complaint.

"2. There is insufficient evidence to show that any such accusation of crime against plaintiff or any statement or statements giving rise thereto was false.

"3. There is insufficient evidence to show that defendant published any such accusation of crime against plaintiff or the statement or statements giving rise thereto with actual malice—that is, with knowledge that it was false or with reckless disregard of whether it was false or not.

"4. The First and Fourteenth Amendments to the Constitution of the United States, Article I, Section

9 of the Indiana Constitution, and the common law of Indiana preclude a public official from recovering damages for allegedly libelous publications pertaining to his conduct in office unless he first proves each of the following:

"a. That the publication defamed him personally and not just his department or his subordinates for which he was responsible;

"b. That the accusation or (as here) if implied, that the statement or statements giving rise to the accusation were false; and

"c. That the defendant published said accusation and the statement or statements giving rise thereto with actual malice—that is, with knowledge that they were false or with reckless disregard of whether they were false or not.

Each of the verdicts of the jury on paragraphs 12, 14, 18, 20, 37 and 40 of the amended complaint is contrary to law in the following particulars:

"1. Each of said verdicts is not sustained by sufficient evidence.

"2. Each of said verdicts is in violation of the fundamental constitutional principle that prohibits a public official from recovering damages for an alleged libelous publication pertaining to his official conduct in office unless he first proves that said publication contained a defamatory falsehood about his personally, and as distinguished from his subordinates or his department for which he is responsible, and that said defamatory falsehood was published by defendant either with knowledge, at the time, that it was false or with a high degree of awareness, at the time, that it was probably false.

"3. Each of said verdicts permits a public official to recover damages for an alleged libelous publication pertaining to his official conduct in office with proof which at most would establish that defendant was negligent in failing to seek and ascertain more facts before publishing said publication, and is therefore in violation of the fundamental constitutional principle

which permits a public official to recover damages only for those defamatory falsehoods which defendant in fact published with knowledge of their falsity or with knowledge of facts indicating their probable falsity.

"4. Each of said verdicts permits a public official to recover damages for an alleged libelous publication pertaining to his official conduct in office with proof which at most would establish that defendant bore ill will toward him and thus may have had a proclivity to be reckless in publishing statements about him, and is therefore, in violation of the fundamental constitutional principle which permits a public official to recover damages only for those defamatory falsehoods which defendant in fact published with knowledge of their falsity or with knowledge of facts indicating their probable falsity.

"5. Each of said verdicts is inconsistent, as a matter of law, with each of the verdicts of the jury on paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 15, 16, 17, 19, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 41, 42, 43 and 44 of the amended complaint.

"6. Each of said verdicts is a compromise verdict." (Tr. 770-2057; SR 136-151)

The motion for new trial was overruled by the trial court. (Tr. 2058; SR 152)

L.

DEFENDANT'S ASSIGNMENT OF ERRORS TO THE SUPREME COURT OF INDIANA.

Defendant's assignment of errors to the Supreme Court of Indiana was timely filed and reads as follows (omitting caption and signatures):

> "The appellant [Indianapolis Newspapers, Inc.] avers that there is manifest error in the judgment and proceedings in this cause, which is prejudicial to appellant, in this:
>
> 1. The court erred in overruling appellant's motion for new trial.*
>
> 2. The court erred in overruling appellant's motion for summary judgment.
>
> 3. The court erred in denying appellant the right to subpoena and inspect the books and records of the law firm of Lewis and Fields." (Tr. 1; SR 155)

*Under Indiana appellate procedure, the only permissible assigned error, with respect to matters occurring at trial, is that the trial court erred in overruling appellant's motion for new trial. Such assigned error, therefore, properly preserves for review on appeal all matters specified as grounds for the motion for new trial to the extent that such matters are briefed by the appellant in its brief to the Supreme Court of Indiana.

M.

QUESTIONS BRIEFED BY DEFENDANT IN ITS BRIEF ON APPEAL TO THE SUPREME COURT OF INDIANA.

In its brief on appeal to the Supreme Court of Indiana, defendant presented and fully discussed the following Constitutional questions, based upon this Court's rulings in *New York Times* v. *Sullivan* (1964), 376 U. S. 254, and cases following:

1. The Six Verdicts in Favor of Appellee Are Not Sustained by Sufficient Evidence and Are Contrary to Law:
   a. There Was Not Sufficient Evidence to Show that any Publication Had in Fact Been Read and Understood as Appellee Alleged. (App. Br. 44)
   b. There Was Not Sufficient Evidence to Show Falsity or Actual Malice. (App. Br. 55)
   c. There Was Not Sufficient Evidence to Show that Appellee Was Damaged. (App. Br. 70)
2. Verdicts Contrary to Law Because Inconsistent. (App. Br. 77)
3. Errors as to Evidence, Instructions and Argument with Respect to Ill Will. (App. Br. 90)
4. The Court Erred in Admitting into Evidence Numerous Hearsay Documents and Testimony Pertaining to Matters About Which Appellant Had No Knowledge When It Published the Articles Sued Upon, and in Instructing the Jury as to the Effect of Such Evidence:
   a. Under *New York Times* Knowledge or Recklessness Is Determined Not by What Appellant Could Have Learned on Investigation, but that of Which Appellant Was in Fact Aware. (App. Br. 120)
   b. The Trial Court Ignored the *New York*

Times Rule and Admitted Evidence of Every Description Regardless of Complete Absence of Any Knowledge or Awareness on the Part of Appellant. (App. Br. 125)

c. The Trial Court Compounded the Error by then Instructing the Jury It Could Consider All this Evidence on the Issue of Reckless Disregard of the Truth. (App. Br. 139)

d. Any Such Evidence Offered on The Issue of Falsity Was Erroneously Admitted Over Appellant's Objections on the Grounds of Incompetence or Hearsay. (App. Br. 143)

5. Errors Relating to Instructions:

a. Error in Giving Appellee's Tendered Instruction No. 2. (App. Br. 157)

b. Errors in Giving Appellee's Tendered Instructions Nos. 4, 5 and 8, and in Refusing Appellant's Tendered Instructions Nos. 7 and 9. (App. Br. 164)

c. Error in Giving Appellee's Tendered Instruction No. 6. (App. Br. 169).

Each of these alleged errors was considered and rejected by the affirming opinion of the Supreme Court of Indiana.